


THE
AGRICULTURAL LIFE
OF THE JEWS IN
BABYLONIA

BETWEEN THE YEARS 200 C.E. and 500 C.E.

BY
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PREFACE

THE material used here for the reconstruction of the actual conditions of the economic life of the Jews in Babylonia between the years 200 and 500 of the present era is almost wholly drawn from the Babylonian Talmud, although the Palestinian Talmud and other sources which throw light on the subject, such as the Midrashim, have not been neglected. There is by no means a connected description of this subject to be found in the Talmud, but in nearly all cases the data had to be inferred from occasional references, incidental remarks, and legal discussions dealing with widely diversified subjects. After a thorough examination of all the tractates of the Talmud, I have collected and arranged these data under proper headings. In many cases the discussions from which the inferences are drawn are so complicated and long that it would be impossible to quote them fully. In such cases I therefore refer the reader to the subject in the Talmud itself and to the comments of Rashi and of Lexica (especially Kohut's *'Aruk Completum*) upon it. As, in nearly all discussions on the various aspects of Jewish law found in the Talmud, the data bearing on Babylonia are almost wholly intermingled with those referring to Palestine, great care had to be taken to distinguish between them. Some of the data are also drawn from discussions of Babylonian Amoraim as to the explanations of Mishnayot and Baraitot. The illustrations they use, and the incidental remarks they let fall in the discussions, usually reflect Babylonian life.

The Rabbinic literature has already been used a great deal as a source of data for the history and geographical distribution of the Jews of those times, and also for the collection of economic data; as far as my knowledge extends, however, I have not seen it used for the reconstruction of the economic life of the Jews in Babylonia during the Sassanide period.

The present work is confined to one phase of their economic life, namely, Agriculture. The term agriculture as used here is taken in its widest sense and includes all kinds of industries associated with the cultivation of the soil. I have therefore included in this work, in addition to land cultivation, the rearing of live-stock as well as agricultural industries. I also deal with the subject of taxation and the law of the land in relation to Jewish civil law, as the matter dealt with there had a strong bearing on the agricultural life of the people. In a future work I hope to continue the reconstruction of the other phases of the economic life of the Jews in Babylonia.

Part of the present work, namely, the greater part of the Introduction and the six chapters dealing with the General Conditions, Land Ownership, Land Tenures, Workmen and Slaves, Methods of Land Cultivation and Objects of Cultivation, was accepted, in the form of a Thesis entitled *The Economic Conditions of the Jews in Babylonia*, Part I, Agriculture, by the London University for the Ph.D. degree.

Many works relevant to the subject have been consulted, and to these I am indebted a great deal for the light they throw on the various aspects of the work. Of especial help were the monumental works of S. Kraus, *Talmudische Archäologie* and *Kadmoniot Hatalmud*, Funk's *Die Juden in Babylonien*, Halevy's *Dorot Harishonim*, and Obermeyer's *Die Landschaft Babyloniens*. Other works consulted will be found under Bibliography. I wish also to express my appreciation to Dr. A. Büchler, Dr. A. Marmorstein, and Dr. I. Epstein for their very helpful suggestions.

J. N.

CONTENTS

Preface	vii
Bibliography	xi
Introduction	I
I. General Conditions	17
II. Land Ownership	33
III. Land Tenures	49
IV. Workmen and Slaves	62
V. Methods of Land Cultivation	74
VI. Objects of Cultivation	90
VII. Live-stock Rearing	112
VIII. Domestic Birds, Bee-Culture, Fishing, Fowling, and Hunting	131
IX. Milling, Baking, Butchering	144
X. Taxation (Taska and Kraga)	161
XI. Taxation (<i>continued</i>)	179
XII. The Law of the Land and Jewish Civil Law	187
Index of Talmud References	199
General Index	206

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ABBREVIATIONS

THE names of the tractates of the Babylonian Talmud which do not recur frequently are given in full, the others are usually quoted in an abbreviated form as Kidd., Yeb., Shabb., Pesah. for Kiddushin, Yebamot, Shabbat, Pesahim respectively; Baba Kama, Baba Mez'ia, Baba Batra, Mo'ed Katan, and 'Abodah Zarah are usually given as B.K., B.M., B.B., M. Katan, and 'Ab. Zarah respectively. When reference is made to a tractate of the Jerusalem Talmud, Jer. is placed before the name.

The other works quoted are usually referred to by the name of the author; those that do not recur frequently are given in full.

INTRODUCTION

THE history of the Jews in Babylonia is second in importance only to that of their brethren in Palestine. Settled there since their first captivity by Nebuchadnezzar, in the year 597 B.C.E., they have had a continuous existence in that country to the present day; nor is the influence of Babylonian Jewry upon the history and life of the Jewish people hardly inferior to that of the Palestinian Jews. With the death of Hai, Gaon of the Pumbedita Academy, in the year 1038 C.E. their influence upon World-Jewry, however, practically ceased. From that time onwards the Jewish settlement in Babylonia gradually dwindled in numbers and lost its importance, till it was almost forgotten by the important Jewries which had arisen in the West. Of the sixteen centuries in which Babylonian Jewry played its great role the most significant period was undoubtedly that from the time of the return of Rab from Palestine to his native Babylonia, in the year 219 C.E., to the death of Rabina, the final redactor of the Talmud, in the year 474 C.E. It was in the course of these three centuries that that monumental work, the Babylonian Talmud, in which are formulated the laws and customs by which the life of the Jew has been regulated at all times and in all countries, was created. The influence of the Babylonian Talmud upon the Jewish people cannot be exaggerated; suffice it to say that, even to the present day, the Jew carries indelibly the stamp of the Talmud upon him.

The year 219 was a turning-point in the history of the Jews in Babylonia. The appointment of Samuel as Head of the great Academy of Nehardea about that time, and the rise of the Academy of Sura, founded by Rab in the same year, mark the beginning of a new epoch in which the Babylonian Jews gradually wrested the leadership over World-Jewry from

their Palestinian brethren. These academies proved worthy rivals of those of the mother-country, eventually surpassing them to the extent that Babylonian influence began to be recognized even in Palestine. At that time the Jewish population of Babylonia was considerable, exceeding in number those to be found in every other country, probably not excluding Palestine. They lived there in compact masses, and many towns and even districts existed in which the Jews formed the majority of the population. Many proofs in support of this assertion may be adduced from Talmudic sources for the whole of the period under review.

Commencing with the beginning of our period, which is the first half of the third century, there is a Mishnah (B.K. 79b) which teaches that it is forbidden to rear sheep and goats in the cultivated parts of Palestine, as the shepherds are inclined to pasture their animals in other people's fields. This prohibition, however, did not apply to the uncultivated parts of Palestine, nor to Syria, in which country the Jewish settlements do not seem to have been as close as in Palestine. In Babylonia, too, before the third century, this prohibition did not exist, in spite of the fact that Jews lived there in compact masses. On returning from Palestine to his native Babylonia, in the year 219, and observing a similarity of conditions in the two countries, Rab ordained that the prohibition should be extended to Babylonia. This is explicitly stated by R. Huna (d. 297), and R. Judah (d. 299): 'Since the return of Rab to Babylonia, we have constituted ourselves the equals of Palestine in regard to the rearing of small cattle.'¹ The reason for this is, as Tosafot and Halevy clearly demonstrate, that Rab felt the necessity of such an enactment on account of the close nature of the Jewish settlements. Rashi, however,

¹ See Rashi and Tosafot B.K. 80a מְכִי אֶתָּה רַב, and Halevy iii. 206; cf. Funk, ii. 10. For Jews living in compact masses see Jos. *Ant.* xviii. 9. 1; also Halevy, i. 94; Yawitz, v. 102; Funk, i. 11, note 2.

regards the reason of the enactment to have been the considerable increase in the Jewish population in the country after the advent of Rab; the establishment of the academies attracting a large number of Jews from all parts. The statements of R. Huna and R. Judah, however, clearly indicate that the law was enforced soon after the return of Rab, and it is highly improbable that in so short a space of time their numbers could have increased to such an extent as to warrant the enforcing of this measure. It is self-evident that no such law would have been introduced unless large portions of the countryside were owned by Jews. This will, by the way, account for the prohibition being confined to Babylonia and not extended to Media, although it contained a large Jewish population,¹ because in that country the Jewish settlement was not so close (as must also have been the case with Syria, mentioned in the Mishnah quoted above, p. 2).

Again, there is a difference of opinion between Rab and Samuel in regard to a barrel of wine found floating on the Euphrates, about which wine there was a doubt whether it had been prepared by Jews, and therefore fit for consumption, or by heathens, and therefore unfit for Jewish use. Rab maintained that if the barrel was found near a town with a Jewish majority it was to be assumed that it was Jewish wine; but if near a town with a non-Jewish majority it should not be used. Samuel, however, maintained that even if found near a Jewish town it might not be used, as it might have floated there from Ihi-da-Kiri (modern Hit), where the majority were non-Jews.² This discussion clearly proves that there were many towns on the Euphrates with Jewish

¹ See Kidd. מרי חולה 71b. That it ranked next to Babylonia is seen from the epistle of R. Gamaliel, Sanh. 11b: 'To our brethren in the exile of Babylonia, Media, and other places'; also Shekal. 12b Mishnah. 'For Babylonia, Media and other distant provinces' see also Jos. Ant. xi. 5. 2. 'For the Jews of Babylonia and Media' see also Halevy, i. 109.

² B.B. 24a.

majorities, and that those where the non-Jewish element predominated lay to the north of Ihi-da-Kiri.

It is also related that Rab once observed a Jew standing by a canal and washing the head of a carcass. Slipping from his hand, the head fell into the water. Anxious to recover his loss, the man lowered a basket into the water; but fished up two heads. Rab, however, forbade the man to eat either of them, lest neither were ritually prepared meat. Whereupon R. Kahana and R. Asi asked him, 'Is not Jewish meat just as common as non-Jewish?' to which the answer was given that as this happened near a non-Jewish town the meat was most likely non-Jewish.¹ This incident must have occurred shortly after the year 219, as R. Kahana is mentioned as one of the questioners, and he is known to have emigrated to Palestine not many years after that date.² This discussion is also a clear indication that Jewish towns were very common in Babylonia.

There are further enumerated in the Talmud ten enactments which are traditionally assigned to Joshua. Among them were: (1) cattle should be allowed to graze in the woods; (2) farmers should allow the public to use the paths leading through their fields before the second rainfall, that is, before the seed begins to sprout; (3) pedestrians may step on the edge of fields to avoid obstacles in the road. In this connexion it is related that Samuel (d. 254) and R. Judah (d. 299) were going on a journey when the latter observed Samuel walking on the edge of a field, and asked, 'Are the enactments of Joshua in force in Babylonia?' To which the reply was given, 'Yes, and even in other places'. This must, no doubt, have taken place within the period between the death of Rab and that of Samuel, 247-54, when R. Judah became the disciple of the latter. Mar Zutra, the pious, is further mentioned as having taken advantage of the privileges afforded by the

¹ Hull. 95b.

² See Halevy, iii. 230-42; Yawitz, vii. 37-8.

enactments of Joshua. It is clear that no Jew could have availed himself of such privileges had not large portions of the countryside been owned by Jews.¹

The conditions prevailing during the fourth century seemed to have differed little from those of the third. Thus there is the story of a bird of prey that snatched a piece of meat from a shop and dropped it among the palms of b. Marian, who came before Abaye (d. 338) with the inquiry whether he could keep it, and the reply given was in the affirmative. The question is then asked in the Gemara, 'Were not the majority in that district Jews?' If they were, the meat had to be returned.²

Again, we read of a band of thieves who broke into many houses in Pumbadita and opened casks of wine. These thieves might have been heathens, in which case the wine would be rendered ritually unfit for Jewish consumption. Raba (d. 352), being asked by the owners for his opinion, allowed the wine to be drunk, because he maintained 'Most of the thieves are Jews'.³ It is clear that the decision of Raba was determined by the fact that the vast majority of the population of that town were Jews, as there is nothing to indicate that the Jews as a whole were more addicted to stealing than the heathen Arameans and Arabs amongst whom they dwelt. The fact of Raba's opinion being sought, and not that of Abaye, who was the head of the Pumbadita Academy, is a clear indication that this happened after the death of the latter in the year 338.

Coming down to the end of the fourth century and the beginning of the fifth, it is related of R. Naḥman of Nehardea that he visited R. Kahana (4th and 5th cent.) in Pum-Nahara on the eve of the Day of Atonement. Some meat which had been snatched from the shops happened to have been dropped

¹ B.K. 81b.

² B.M. 24b.

³ 'Ab. Zarah 70a; see B.B. 55b. Tosafot אֶלְעִזָּר and Asheri.

in the street by ravens. R. Kahana said to R. Nahman, 'You may eat this meat, as most of the meat to be found in the town to-day is ritually prepared'.¹ From these examples it is evident that throughout the period under review there were many towns and districts in Babylonia which contained Jewish majorities.

*Geographical Survey*²

The boundaries of the Jewish settlement in Babylonia are clearly indicated in the Talmud,³ and these, as Obermeyer has truly shown, differ only slightly from the political boundaries of the country under the Sassanides. In the north, on the Euphrates, the boundary started a little below Ihi-da-Kiri, the modern Hit, and stretched across the country to the neighbouring towns of Okbara and Awana in the district מושבני. These towns lay on the Tigris about ten parasangs above Baghdad. The boundary then stretched eastwards as far as the Neharwan Canal. This canal left the Tigris at Dur, on its eastern side above Samara, over a hundred miles north of Baghdad, and rejoined it below Kut-el-Amara, an equal distance to the south; and it may be regarded as the eastern boundary of Babylonia. The southern boundary, according to Obermeyer, began about Kut-el-Amara on the Tigris and stretched across the whole country to the western arm of the Euphrates, called Nehar Hindieh, where both this and the eastern arm lose themselves in the marshes. The western boundary was formed by the Euphrates. These are roughly the boundaries of the Jewish settlement in Babylonia during the Talmudic period. To the south of Babylonia, as far as the Persian Gulf, was the district of Mesene, which was regarded both politically and from the point of view of the purity of its Jewish inhabitants as a different province. Economically, however, it formed one entity with Babylonia

¹ Hull. 95b.

² See map in frontispiece.

³ Kidd. 71b, 72a.

and could not be separated from it. Hence for the purpose of the economic survey of the Jews in Talmudic times, with which we are concerned, Mesene must be treated as one country with Babylonia, and no distinction will be made between them.

The most important towns lay in the north of the country, where the two great rivers draw closer together. Pumbadita was in the north, on the Euphrates, at the mouth of the Nehar Isa, which canal traversed the whole country and joined the Tigris at Baghdad. Nehardea and Hagronia were also situated on the Euphrates, at the mouth of the Nehar Malka, which also stretched across the whole country, falling into the Tigris at Ctesiphon, Ardashir, and Meḥuza. The twin towns of Sura and Mata Meḥasya lay farther to the south on the eastern arm of the Euphrates, near the site of ancient Babylon and modern Hilleh, at the mouth of the Nil Canal, which crossed the whole width of the country, passing through Pum-Nehara as it drew nearer to the Tigris, where it divided into two arms, the northern one joining the Tigris at Humaniya and the lower one a little above Apamea. Neresh was situated on the Nars Canal, which flowed from the eastern Euphrates arm below the Nehar Nil and lost itself in the marshes of Mesene. Harpania was situated in Mesene on the Sat-al-Hai, which in those days was known as the Tigris proper, as it was larger and more important than the eastern arm, which is the bed of the present Tigris. Kafri lay to the west of Neresh on the western arm of the Euphrates. For this short description of Babylonia including Mesene, I have relied almost entirely on Obermeyer in his admirable work *Die Landschaft Babylonien*.

Historical Survey

At a time when the Jews in their own land were subject to the direst persecution from the various Roman emperors

for remaining true to their most hallowed traditions and customs, at a time when the Jews were forbidden even to tread the ground of their Holy City, Jerusalem, their brethren in the land of captivity, Babylonia, enjoyed all the rights of freedom under the mild rule of the Arsacide kings. Even when the prescriptions of Hadrian had been abrogated, and the times had become more propitious, even at the time when the patriarch, R. Judah the Prince, enjoyed the friendship of the philosophic emperor Marcus Aurelius, the Jews in Palestine still did not feel that the ground was safe under their feet, and could still complain that their condition compared unfavourably with that of their brethren in Babylonia. The great R. Hiyya (2nd cent.) after emigrating from his native Babylonia to Palestine, and experiencing the sweets of Roman rule, declared: 'The Lord, knowing that the Jews would not be able to bear the harsh decrees of the Romans, therefore exiled them to Babylonia.'¹ These words coming from such a man, at a time when the Jews in Palestine were enjoying peace and liberty, throw a vivid light on the happy condition of the Jews under the rule of the Arsacide monarchs. Although not many examples of Jewish life under the later Arsacide kings have come down to us, it can, however, be inferred from the fear and apprehension felt by the Rabbis on the rise of the Sassanide power in 226 that they knew that they had everything to lose and nothing to gain from the fall of the Parthians.

Under the Parthians the Jews in Babylonia enjoyed a kind of national autonomy, under the rule of an Exilarch, in whose hands and in those of the judges appointed by him was invested the power of inflicting even capital punishment to delinquents. Rab (d. 247), the foremost teacher of Babylonia, who returned from Palestine in the year 219, enjoyed the close friendship of Artabanus IV (209-26), the last of the

¹ Pesah. 87b.

Parthian kings, and when the news of the latter's death was brought to him, he exclaimed, 'The bond (of friendship) is snapped'.¹

The rise of the Sassanides to power, in the year 226, filled all the Jews with dismay. They were well aware that the great national renaissance of the Persians was largely engendered and brought to a head by the fanatical Zoroastrian priests, the Magi, and their religious zeal caused the Jews the greatest apprehension. In the beginning of the reign of Ardashir, the first Sassanide monarch, it was declared that the altar and throne were inseparable and must always sustain each other. The Magi were made to form the small council of the nation. While they lent their support to the Crown, the Crown upheld them against all opponents and enforced by pains and penalties their decisions. In the intoxication of victory the Persians, instigated by the Magi, inflicted some hardships on the Jews. 'The Persians too are destroying synagogues' is a remark of Rab.² From the manner this statement is introduced in the Talmud it is easily seen that this happened only in a few isolated cases.

In his fiery zeal for his religion Ardashir caused the sacred fires to be rekindled on the altars where it had been extinguished, and assigned to a certain body of priests the charge of maintaining the fire in each locality. On Zoroastrian festivals the priests would enter into the Jewish houses and remove all lights to their temples and all fires (by means of special coal-pans) to their altars. Seemingly, it was a Zoroastrian law that no lights or fires should burn, on festivals, except in their temples and on their altars. The fear of the Magi compelled the Jews to kindle the Hanuka lights indoors, which hitherto they had been wont to place outside, beside the street doors.

The Zoroastrians also prohibited the Jews from killing

¹ 'Ab. Zarah 10b.

² Yoma 10a.

animals for food; the ritual baths were closed and the dead were exhumed from their graves. The power to inflict capital punishment was taken from the Jewish authorities. They were also not appointed to any official positions such as those of canal wardens and Hazar Paiti. This last disability was not looked upon with annoyance by the Rabbis; in fact they were rather pleased about it, as the holders of such offices were in very bad repute among Jews. The latter act was, no doubt, the natural consequence of the intense national spirit which brought about the Persian revival. An antagonism to all things foreign and the policy adopted for effectively establishing their rule caused them not to entrust official positions to other nationalities. In this the Jews, no doubt, suffered in common with other subject races. There is no trace, in the Talmud, of the Magi of that period betraying specifically anti-Jewish feeling.

When the government had already become firmly established in his hands, and after the intoxication of victory had worn off, Ardashir relaxed somewhat the harshness of his decrees; the Magi too, we learn, were not averse to accepting bribes. Gradually the life of the Jews was allowed to resume its normal course. They were again appointed to official positions, and many instances are found in the Talmud of Jews acting as tax collectors and tax farmers. The other decrees were also very soon rescinded, for there is no mention anywhere in the Talmud of the Jews experiencing any inconveniences from the prohibition of ritual baths, burial or slaying of animals. The only disability that remained was the loss of the right of inflicting capital punishment. We have also the evidence of Ibn Daud that during the reign of Ardashir the Jews lived on friendly terms with the Persians.

In the year 241 Ardashir died and his son Sapor I ascended the throne. Of this king, historians speak in very flattering terms, and he has been extolled as an example of *mens*

sana in corpore sano. To him is ascribed a love of justice and learning. He encouraged the study of medicine, astronomy, mathematics, philosophy, and kindred subjects. Of his love for justice there is ample evidence in the Talmud, since those Rabbis who excelled as judges were known by the epithet King Sapor as a sign of their efficiency.¹ No better evidence is needed to show the love felt by the Jews for this great and good monarch than is exhibited by the fact of their bestowing his name in such a manner upon their greatly beloved and revered teachers. Another instance of the respect of the Jews shown to this king is afforded by the fact of their bestowing his name upon a clean bird,² to distinguish it from an unclean bird that resembled it.³ On one occasion he remarked to Samuel that he had never yet allowed a Jew to be killed, a remarkable assertion when we take into consideration the power that was vested in the hands of that monarch. A close friendship existed between Samuel (d. 254) and the king, and many instances of conversations between them are found in the Talmud. Rab, the great colleague of Samuel, although he witnessed only six years of Sapor's reign, recognized the worth of the king and called him 'The Benevolent' because of the personal interest he took in the poor of his realm.

After the death of Samuel, Sapor continued in his friendly attitude towards his Jewish subjects, and he kept on terms of personal friendship with the former's great disciple R. Judah (d. 299), who is mentioned as sleeping and dining in the king's palace.⁴ The gracious manner in which the king acted on that occasion to suit R. Judah's dietary scruples plainly shows that he had some knowledge of Jewish law, and that he was extremely tolerant of other people's beliefs. From a political point of view, then, the Jewish position under such a king did not leave much to be desired.

¹ Pesah. 54a; B.K. 96b; B.B. 115b.

² Levit. xi. 13-20.

³ Hull. 62b.

⁴ 'Ab. Zarah, end.

On the other hand, the Jews, in common with the other inhabitants of the country, suffered from the international unrest of the times. Sapor resumed the war with the Romans, begun by his father Ardashir, for the possession of the rich lands of the Euphrates, so thickly populated by Jews. R. Johanan (278) aptly remarked concerning these struggles that Holwan, Adiabene, and Nisibis are the three ribs which Daniel (vii. 5) described as being held in the mouth of the beast, sometimes crunched, sometimes dropped, implying that they were sometimes in the possession of the Romans and at others in Persian hands. On the return of Sapor's armies from the second war with the Romans (261), in which campaign they had captured the Emperor Valerian (260), they were attacked by Odenarth, prince of Palmyra, who is described in the Talmud as half king, half robber-chief. Emboldened by his initial success, he penetrated deep into Persian Mesopotamia and even made an attempt on the walls of Ctesiphon, from which he was, however, forced to retreat. To this incursion is ascribed the destruction of the ancient Jewish town of Nehardea by Papa b. Nazar, mentioned by Sherira in his famous letter. The destruction of this important seat of learning filled all the Jews with sorrow. The inhabitants fled in all directions and the academy was transferred to the neighbouring town of Pumbadita. The Jews suffered much from the ravages of Odenarth's soldiers and many, chiefly women and girls, were taken away as captives.

The years following the death of Sapor I (272) were times of peace and tranquillity for the Jews in Babylonia. The kings who reigned in quick succession after Sapor were content to rest on the laurels of their warlike predecessors, and did not aspire to extend their territories by war. The friendly disposition displayed by Sapor towards the Jews was continued by them. The statement of R. Huna (d. 297), 'The

Jewish exiles in Babylonia have their minds at rest',¹ is sufficient evidence to prove that their position was a happy one at that period. In the year 283, during the reign of Bahram II (276-93), the Roman Emperor Carus invaded Mesopotamia and penetrated as far as Ctesiphon. The Jews must no doubt have suffered from the advent of enemy troops. Their stay was, however, not long, for Carus soon died, and the Roman army retreated. The wars of Narses (293-302) with the Romans (296-7) do not seem to have touched the close Jewish settlements, and no mention of them is found in the Talmud. Not one of the six kings who reigned between the death of Sapor I and the accession of his great namesake Sapor II is found mentioned in the Talmud.

Sapor II, who was actually crowned before birth, reigned for a period of about seventy years (310-79). He is frequently mentioned in the Talmud because of his relations with the great Rabbis of Babylonia. His attitude towards the Jews, although not unfavourable, was somewhat harsh and stern at first, but it was considerably softened under the influence of the queen mother Ifra Hurmiz. This benevolent and kind-hearted lady was very favourably disposed towards the great Rabbis. Her respect for their learning and piety knew no bounds, and she would send to them for the solution of all kinds of difficult problems. She also entrusted them with large sums of money for distribution to charity.

It was during the minority of this king, when the great magnates ruled the land, that the accusation was lodged against Rabbah (d. 320) that he was conspiring to defraud the Crown of its revenue from poll-tax due from his many disciples who assembled twice a year to hear his lectures at the Academy of Pumbedita. Officers were sent to seize him, and to avoid being taken prisoner he fled, and while in the course of roaming about as a fugitive he met a premature

¹ Menah. 110a.

death.¹ Raba (d. 352) too was once in difficulties with Sapor himself, because he had aroused the anger of that monarch by inflicting capital punishment in his court, an act forbidden to Jews under the Sassanides, and it would have fared very badly with him but for the intervention of the queen mother, Ifra Hurmiz, who appeased the wrath of her son.² The influence of the queen mother was not without its due effect, and later in life his manner in his relations towards his Jewish subjects altered considerably. He manifested greater interest in them and in their religion, and is mentioned in friendly intercourse with R. Hama of Nehardea (d. 377).

In the vigorous war waged by Sapor II against the Romans, for twenty-seven years, the Jews certainly sided with their sovereign, and when the Emperor Julian invaded Mesopotamia and Babylonia, in the year 363, they showed their patriotism by the staunch resistance they made to the invader. A small town, Birta, was deserted by the inhabitants who were Jews, and in retaliation the Romans burned the place. The same fate befell the more important city of Firus Shabur (Pyrisabora) on the Euphrates, identical with Anbar of the Caliphate, which also possessed a large Jewish population. Mehuza suffered a great deal, together, no doubt, with many other towns in which Jews dwelt. In the Talmud, there is no mention of the sufferings occasioned to the Jews by these wars. The peace concluded between Sapor and the Romans, in that same year, was maintained for a long time, and no open war broke out between the two empires till the year 422, in the reign of Bahram Gor.

Sapor II died in 379, and the three kings who followed him did not keep the throne very long. Like their predecessors, they maintained a policy of friendliness towards their Jewish subjects. No mention of them is to be found in the Talmud or in other Jewish sources.

¹ B.M. 86a.

² Ta'anit 24b.

Yezdegerd I (399-420) was an energetic and intelligent ruler, and very tolerant to those professing other beliefs, even to Christians. In his later years his attitude towards the Christians changed and in 414 he instituted persecutions on them. His attitude towards the Jews, as far as may be gathered from the Talmud, seems to have been friendly. From an incident related in the Talmud concerning R. Ashi (d. 427), Amemar, and Mar Zutra, who were waiting at the palace for an audience with the king, it appears that R. Ashi at least was not a stranger there.¹ The great esteem in which the king held the Exilarch of that time, R. Huna b. Nathan, is shown by his gracious act in adjusting the girdle of the latter during an audience, uttering at the same time a complimentary biblical verse.² From the latter fact it may be gathered that the king was not altogether unacquainted with Hebrew literature. In the Persian annals it is mentioned that Yezdegerd had a Jewish wife who was the mother of his son Bahram V Gor (Shatroiha-i Eran). Of the activities of this princess and of her sympathetic feelings for her coreligionists details are given in those annals. It is, however, curious that such an important event in the history of the Babylonian Jews should be ignored by the Jewish sources.

The policy of Bahram V Gor (420-38) towards the Jews did not in any way differ from that of his father. Being the son of a Jewess, he would naturally be favourably disposed towards his kindred. The persecutions he meted out to the Christians led to a war with Rome (420-2), which, however, did not affect Babylonia. There is no mention of this king in the Talmud nor in other Jewish sources.

His son, Yezdegerd II (438-57), changed his policy entirely, and instituted a persecution of the Jews, which transcended in cruelty all they had hitherto experienced in Iran, and was the forerunner of still severer sufferings. In the last year of

¹ Ketub 61a and b.

² Zebahim 19a.

his reign, instigated by the fanatical Magi, he issued a decree forbidding the observance of the Sabbath. His sudden death, however, prevented further persecution.

His son, Peroz, after defeating his brother Hormuzd III became firmly established on the throne (457-84). In the eleventh year of his reign a systematic persecution of the Jews and their religion began. The Jews of Ispahan were accused of having flayed two Magi alive, and one-half of the Jewish population in that town was slaughtered and their children delivered to the fire-worshippers. The same decree against children was also issued in Babylonia. On a Sabbath in 470 Amemar b. Mar Yanuka, Meshershia, and Huna b. Mar Zutra, the Exilarch, were imprisoned and soon afterwards killed. Synagogues were closed and the study of the law prohibited. Although such decrees could not be effectively carried out in a land where the Jews lived in compact masses and where they had enjoyed complete freedom for over a thousand years, this consideration in itself made their grief all the more poignant, since they would compare their present sufferings with their former happy state. Killing Jews because of their belief, especially Rabbis, who had been at all times greatly honoured by the government, was a thing unheard of in the annals of that country. It is therefore not without cause that Peroz earned the epithet 'wicked' in the Talmud.¹ The fact mentioned by Rabina that the Jews experienced hardships, at the hands of the Magi, in connexion with the burial of the dead² most probably refers to that time. According to Jewish tradition, Peroz suffered a violent death.

With his death the persecutions abated somewhat, and the reign of Balash (484-8) and the beginning of that of Kobad (488-531) were uneventful for the Jews. With the death of Rabina, the last redactor of the Talmud, in the year 474, the Talmudic period comes to an end.

¹ Hull. 62b.

² Bezah 6a.

I

GENERAL CONDITIONS

THE land of Babylonia as described by the ancients was of extraordinary fertility, and due allowance being made for exaggeration, there remains indubitable evidence of great productivity. The disuse of former elaborate arrangements for irrigation, and the lack of attention, have in modern times turned much of the country into an arid waste interspersed with malarial marshes. In the Talmudic period, however, the land was still at the height of its fertility. It was very thickly populated and dotted everywhere with towns and villages. Lying between the two great rivers, the Euphrates and the Tigris, intersected by numerous smaller rivers and innumerable canals, the chief of which stretched across the whole country from one of the great rivers to the other, and possessing in addition a great number of lakes and ponds, the country was abundantly supplied with water sufficient to give the necessary moisture to the soil independently of the rainfall. 'Thou dwellest on many waters abundant in treasures' was the prophet's description of Babylon when announcing its impending doom.¹ This passage serves as a basis for the remark of the Palestinian R. Oshaya (3rd cent.), 'Why are the storehouses of Babylonia always filled with grain? because there is an abundance of water',² while Rab (d. 247) also observed, 'Babylonia is rich, because the harvest is gathered, even when rain does not fall'.³

When Samuel, cited by R. Ze'era (3rd and 4th cent.), taught that during a festival week a field may be watered from a canal originating in a lake, it was pointed out to him that this apparently contradicted the teaching of the Mishnah⁴

¹ Jeremiah li. 13.

² Ta'anit 10a.

³ Ibid.; Kraus ii. 164; Berliner, 6.

⁴ M. Katan 2a.

that during the festival week one may not water a field from collected rain-water or from a קילון (= a channel dug from a well to bring the water to the field, 'Aruk), as the water may become exhausted and he will have the trouble of digging deeper for more water. To this Samuel replied that the lakes of Babylonia contain an inexhaustible supply of water and should not be compared with those of Palestine.¹ For this reason he declared that the stringency attached in Palestine to the observation of the rain fasts did not apply to Babylonia.² On the contrary, public prayer would sometimes be offered to avert the calamity of too much rain or flood. That the country was frequently subject to such occurrences was well known even to the Jews of Palestine, and after exceptionally heavy rain the latter would, in former times, offer up prayers in the Temple on behalf of their Babylonian brethren, that they should be saved from the perils of flood.³ Because of the constant floods the בורניים (= storehouses or watchmen's huts) on the outskirts of the towns were frequently swept away, and hence were of a temporary nature. 'The law of בורניים does not therefore have effect in Babylonia' is an observation attributed to Rab.⁴

The expression אין בורניים בבבל by no means implies that there were no בורניים in Babylonia; but that the בורניים found there were only temporary structures and could not be regarded as of sufficient consequence to be included in the neighbouring town, thereby enabling a traveller to extend his journey on a Sabbath, as has been rightly observed by Rashi.

¹ M. Katan 4a אַנמיס דבבל; Funk, i. 14.

² Ruling of Samuel, Pesah. 54b; Ta'anit 11b and 12b אין תענית ציבור
³ see Rashi and Tosafot; see Berliner, 6, note 3.

⁴ Ta'anit 22b: 'In Golah (Babylonia) מתריעין prayer meetings in which the Shofar is sounded are held because of too much rain.' Funk, i. 14; Kraus, ii. 151, note 18; Berliner, 6.

⁵ 'Erub. 21a בורניים (Burgus) huts for watchmen, Rashi. Station houses, 'Aruk, see Kohut. רשביחי בירק (Arab. = bursting dam).

The truth of this explanation is borne out by the story immediately following the above statement, in the name of Rab. Addressing himself to Mar b. R. Huna b. R. Jeremiah b. Abba, R. Hisda said: 'Is there any truth in the report which I have heard, that you walked on a Sabbath day from Baranash to the synagogue of Daniel (in the district of Sura), a distance of three parasangs?' (the distance one may walk on a Sabbath from the outskirts of a town is 2,000 cubits, a quarter of a parasang). 'The reason for your act is, no doubt, because you relied on the בורגנין which are found between the two places; but did not your grandfather teach in the name of Rab בבב'ל אין בורגנין כבב'ל?' The expression בבב'ל אין בורגנין in this case can have no other meaning than that which has just been given. The assertion of Kraus¹ that the בורגנין were the Roman military outposts, and therefore did not exist in Babylonia, where there were no Romans, and according to him this would be the meaning of the expression בבב'ל אין בורגנין כבב'ל, cannot possibly be accepted, as has been fully demonstrated.

The favourable conditions just described did not save various districts in Babylonia from suffering, now and then, from droughts which caused a scarcity in the food-supply, and fasts for rain would then be ordained. Thus Rab (d. 247), we are told, happening to be in a town which was suffering from lack of rain, ordained such a fast. Later, in the days of his disciple R. Judah (d. 299), we read of a severe famine, caused by the lack of rain, in his native town of Pumbadita. R. Judah fasted and prayed for rain. His prayers were soon answered and rain fell; moreover, the arrival of grain ships from פרזינא, a town in the neighbourhood of Baghdad, contributed greatly to relieve the prevailing distress. From this it is clear that the famine was only of a local character. R. Judah's younger contemporary R. Nahman (d. 320) also

¹ *Magazin für Die Wissenschaft Des Judentums*, xix. 243, xx. 150.

ordained a fast for rain, no doubt in his native town of Nehardea. We also learn that, owing no doubt to a partial failure of the crops, Nehardea frequently experienced a shortage in the food-supply. On one occasion the prices soared so high that some people had no alternative but to sell their houses in order to buy food. The subsequent arrival of grain ships from other districts, however, brought the prices back to normal.¹ Raba (d. 352) is twice mentioned as ordaining fasts for rain. One of these fasts was most likely observed in Mehuza, where he lived, the other in the town of Hagronia, which lay in the vicinity of Nehardea. Again, his disciple R. Papa (d. 374) is also mentioned as ordaining such a fast, no doubt in his native town of נרש on the Nars Canal.² From all that has just been adduced it is evident that the droughts and famines which occurred in Babylonia were usually of a temporary nature and local in character, and so it was possible for relief to be sent from the unaffected parts of the country. This accounts for the regulations in connexion with the rain fasts in Babylonia being less stringent than those of Palestine.

The soil of Babylonia is of a rich alluvial nature containing no stones, and is of an unusually soft character.³ The clods of soil, because of their peculiarity to the country, went by the name of 'Babylonian'.⁴ The climate is sub-tropical and hotter than that of Palestine. 'For us (Babylonians) the world is hot, not so for them (Palestinians)' is an anonymous saying in the Talmud.⁵ The climate, together with the natural moisture of the soil, was the cause of its extraordinary

¹ Ketubot 97a.

² Ta'anit 24a and b. For פרוינה see Obermeyer, 269; Hagronia, *ibid.* 265-7; Neresh, *ibid.* 306-12.

³ Midrash Psalms xxiv.

⁴ Shabb. 81a ברשיני בבלייתא (Arab. = hard soil), Kohut; Berliner, 6; but see Kraus, *ii.* 164, note 114 = a species of Babylonian vetch, which in this case is not in accordance with the context.

⁵ R. Hashanah 20a; see Kraus, *Kadmon.* 16; Berliner, 6.

fertility and the rapidity of growth of the crops. 'I cause plants to grow up in thirty days and vegetables in three', the Euphrates is represented as saying of itself. Even at the present time the wonderful fertility of the land is at once manifested wherever it is properly cultivated.¹

The fruits grown there were delicious to the taste; some districts especially were noted for the sweetness of their fruits. 'If the garden of Eden were in Mesopotamia it would be situated at *רומסקנין*', is a saying of the Palestinian Resh Lakish (3rd cent.). Abaye regarded the fruit of *עבר ימינא*, in the vicinity of Meḥuza, as especially worthy of praise, while his colleague Raba, that of *הרפניא*, a town situated in Mesene, in the extreme south of Babylonia.² It seems strange, however, that Raba should forget about his local *עבר ימינא*, and praise the distant *הרפניא*, while Abaye of Pumbadita should select *עבר ימינא* near Meḥuza for his praise. A probable reason may be that Raba possessed land in Harpania which had been left to him as a legacy by b. Mar Samuel, from his property on the Nehar Pania.³ According to Obermeyer, this was the canal on which stood the town of *הרפניא*, so called because of a hill in its vicinity, while sometimes the town itself went by the name of Nehar Pania.

The commonest of all trees in the country was the date-palm. This tree, which in Babylonia never needed grafting in order to yield good fruit,⁴ grew everywhere. In some places the date-palm groves extended for miles, untouched by the hand of man, as may be inferred from the remark of R. Kahana to R. Simi b. Ashi (4th cent.), whom he was accompanying on a journey, concerning the tradition among

¹ Gen. Rabbah v; Kraus, ii. 204; Yawitz, vii. 9. Cf. Reclus, *Un. Geog.* ix. 209.

² 'Erub. 19a; Kraus, ii. 20 and note 398; Yawitz, vii. 8. *עבר ימינא*, see Obermeyer, 181; Harpania, *ibid.* 182, 197-201. ³ Nedar. 55a.

⁴ Jer. Yebam xv. 3; Berliner, 6; Kraus, ii. 210, note 438a.

the people that the ציניתה (Arab. = species of palm) palm-groves of Babylonia had been in existence, in an undisturbed state, from the time of Adam.¹ From extraneous sources we learn that in the time of Emperor Julian (331-63) the whole of Mesene as far as the Persian Gulf was like one huge palm-grove.² The delicious fruit grew in such abundance that travellers could satisfy their hunger with the dates of the palms growing wild by the way. Thus we read of R. Kahana and a fellow traveller on the way to Huzal—an ancient town that lay almost midway between Nehardea and Sura—satisfying their hunger by the palms on the road.³ As Halevy rightly observes (iii. 184), this must have been R. Kahana, the disciple of Rab and colleague of R. Asi of Huzal (3rd cent.), and it was probably while on a journey to visit his friend that the incident took place. In towns, too, date-palms were to be found. Thus in the days of Rab, date-palms lined the streets and alleys of Sura,⁴ and it is only natural to assume that Sura was not an exception in this respect. Abaye, who lived in Pumbadita, actually had a date-palm growing in his house with its top protruding through a skylight in the roof.⁵ An interesting illustration of the abundance of dates in Babylonia is furnished by the amusing story of the Palestinian 'Ulla. Coming for the first time to that country and observing the extreme cheapness of the dates, he exclaimed: 'A basketful of honey for a zuz, and yet the Babylonians do not devote themselves sufficiently to the study of the Torah.' His attitude, however, altered considerably, when in consequence of excessive indulgence, he felt unwell at night. He then exclaimed 'A basketful of poison for a zuz, and yet the Babylonians find time to study the Torah.'⁶ Flax, too, grew

¹ Berak. 31a; Sotah 46b; Kraus, ii. 201, note 367.

² See Funk, i. 14 and Graetz, *Mesene*, 5, note 3.

³ Gitt. 61a.

⁴ 'Erub. 15a.

⁵ Pesah. 88a; Ta'anit 29b; Berliner, 6; Bacher, 63.

⁶ Ibid. 100a.

in great abundance. The heartening message of Jeremiah to the exiles, 'For I know the thoughts that I think towards you, saith the Lord, thoughts of peace, and not of evil, to give you hope in your latter end' (xxix. 11), was homiletically interpreted, in the name of Rab, as referring to 'the date-palms and linen garments of Babylonia', which owing to their abundance and cheapness, enabled the exiles to find an easy livelihood in the land of captivity.¹ Of such importance was linen to Babylonian trade that מתריעין public prayers, during which the Shofar was sounded, were offered when this commodity fell in price to three-fifths of its value.² Observing this extraordinary abundance, 'Ulla remarked: 'The reason God exiled the Jews to Babylonia was that they could use the dates as food while devoting themselves to the study of the Torah.'³

The climate was healthy and many people lived to a ripe old age. The comment of R. Johanan (d. 279) upon the longevity enjoyed by the Jews there indicates that in this respect Babylonia was above the average.⁴ The people were, to a large extent, free from many of the diseases that attacked the inhabitants of other countries. 'Why are there no sufferers from the disease of ראתן (Gr. = flow of blood or mucus) in Babylonia?' asked R. Hanina b. Hama (2nd and 3rd cent.), 'Because they eat the vegetable תרדן (= a species of beet) and drink the beer brewed with כשות cuscuta'. Again R. Johanan asked, 'Why are there no lepers in Babylonia? Because they eat תרדן, drink beer, and bathe frequently in the Euphrates.'⁵ Plagues were not, however, unknown in

¹ Ta'anit 29b. See Funk, i. 14; Yawitz, vii. 8; Berliner, 7.

² B.B. 91a בבבלי פרגמטיא see there and R. Joseph's statement 'a garment of ten zuz for six'; Yawitz, vii. 8.

³ Pesah. 87b.

⁴ Berak. 8a; Yawitz, ibid.

⁵ Ketub. 77b ראתן (Gr. = flow of blood or mucus). Kohut, skin disease, Jastrow. תרדן = a species of beet; beetroot; see Low, i. 380, also Jastrow. תרד, Berliner, 7; Yawitz, vii. 9. See also Preus, *Medizin*, 57c., 401-4 on ראתן.

Babylonia, as is proved by instances mentioned in the Talmud. Thus we read of a plague that occurred in Sura in the days of Rab, and of another in Drokros, a town in the vicinity of Harpania, during the fourth century in the days of R. Nahman b. R. Hisda. In the days of Samuel there is mention of a plague in the neighbouring province of Hozae.¹ It is obvious that the climate of Babylonia, which is a low-lying plain, could not be as salubrious as that of a mountainous country like Palestine.²

Enjoying as it did all the blessing of God and Nature, it might be supposed that there was little or no want felt in Babylonia; the Talmud, however, indicates otherwise. 'Ten measures of poverty came down to the world, nine of them were taken by Babylonia, and the one was distributed among the other nations of the world', is an anonymous saying of the Rabbis, and this was further emphasized, in the Gemara, in the ensuing discussion, by the statement 'Babylonia is the place for poverty'. The question was further raised in the presence of R. Johanan in Palestine, 'Why are the festivals so joyful in Babylonia?' and the answer is given 'on account of the poverty of the people'.³ 'The poor of Babylonia die of חשנוק (Syr. חשינקא = strangulation), without light and baths' is another illustration to the same effect.⁴ It was not that there was a lack of baths in the country, as Kraus (*Kadmon.* 17) suggests, but because the poor could not afford the means to frequent them. Of the general existence of baths in Babylonia there is ample evidence in the Talmud. Thus we read of Levi (2nd and 3rd cent.) visiting the baths, no doubt in Nehardea, and we are also told of an accident that hap-

¹ Ta'anit 21b.

² Pesah. 87b עמוק כשאול. Megill. 6a הרוני עמוק. See Kraus, *Kadmon.* 14.

³ Kidd. 49b עשרה קבים. Shabb. 145b מועדים שבבבל. Cf. Kraus, *Kadmon.* 14; see Yawitz, vii. 9.

⁴ Jer. Berak. iv. 1; see Kraus, *Kadmon.* 17, note 1.

pened to one of the bathers there. R. Judah is also found visiting the vapour baths of Pumbadita in company of his disciples. Further, there is mention of a dispute in Pumbadita between two men concerning the ownership of a bathhouse. This must have taken place immediately after the death of R. Judah, in 299, for we are told that Rabbah was commissioned to seek the ruling of R. Hisda—who happened to be in Kafri at the time—on the matter, and had R. Judah yet been alive, he would have been the proper authority to consult. Further, had Rabbah already been the appointed head of Pumbadita, he could not possibly have been commissioned by others to travel to Kafri.¹ Not only was every town provided with baths, but even the smallest village boasted the possession of one, as may be inferred from a statement of Raba in which he draws a distinction between the small vapour baths of the villages and the large ones of the towns, with regard to visiting them on a Sabbath.² In fact one of the reasons for Rab's remark, as cited by R. Judah, condemning the lives of those who lived in צריפין (Arab. = cone-shaped huts of plaited rushes), away from towns and villages, was, because those settlements possessed no baths.³ All these passages serve to disprove the assertion of Kraus, alluded to above, that the death of the poor from תשנוק was on account of the absence of baths.

Good illustrations of the destitution of the poor in Babylonia are found in the stories of the lives of some of the Rabbis such as R. Eleazar and Rabbah, and there is no reason to suppose that they differed in this respect from many of the ordinary people.⁴

On the other hand, there were not wanting large numbers of wealthy people who lived amidst all the luxuries that

¹ לוי Hull. 45b. R. Judah, Shabb. 41a. Dispute over bath, B.M. 6b and 7a; see Yawitz, xiii. 8 and notes.

² Shabb. 40b.

³ 'Erub. 55b.

⁴ M. Katan 28a; Ta'anit 25a.

money can procure. They built for themselves beautiful mansions **אפרנא** (Heb. and Pers. = palace), containing large halls as sitting-rooms **אספלירא** (Syr. = sitting-room in the form of a hall generally supported by columns), with banqueting rooms that were decorated with roses **טרקלין** (triclinum), and having well laid out gardens surrounding them **תרביצא**, **אפרנא**, **תרביצא**.¹ The halls of some of the mansions were very large, and could accommodate a great number of people in comfort. Thus, after the death of R. Judah in 299, it was proposed that R. Huna b. Hiyya should be appointed in his place, and when Rabbah and R. Joseph together with a great concourse of Rabbis came to pay their respects to him, he prepared comfortable seats in his house for each one of them.² To some of the houses were attached orchards of vast extent **בוסתן** (Pers. *bustan* = garden or orchard).³ The wealthy also possessed large staffs of men and women slaves.⁴ Of people who lived in **אפרני** there are many instances in the Talmud. Abaye and Raba are both mentioned as possessing **אפרני**.⁵ Their contemporary Mar Zutra b. R. Nahman had an **אפרנא** built for him by heathen contractors, on the outskirts of a town, most probably of Nehardea.⁶ We also read of a **בוסתן** at the side of an **אפרנא**, one of the walls of which happened to fall down; this was most likely in Pumbadita in the time of R. Bibi b. Abaye (end of 4th cent.).⁷ Mention is also made of two brothers who inherited a mansion with a garden which they divided between them, one taking the house, which contained an **אספלירא**, and the other the grounds.⁸ This was

¹ **תרביצא** 'Erub. 25b. **אספלירא** B.B. 7a. **טרקלין** B.B. 98b. **אפרנא** M. Katan 6b, B.B. 7a. **תרביצא** B.B. 98b = garden near house. See also 'Aruk and Jastrow on these. See Kraus, i. 50, notes 644, 647, 649.

² Bekorot 31a.

³ 'Erub. 25b, B.M. 22a. See Kraus, ii. 203 and note 331.

⁴ See Yawitz, vii. 12, and below Chap. IV, on slavery.

⁵ Berak. 56a.

⁶ M. Katan 12a.

⁷ 'Erub. 25b; Kraus, ii. 203.

⁸ B.B. 7a; Kraus, i. 50, note 649.

in the time of R. Hama (end of 4th cent.), and most probably in Nehardea. Pumbadita was well known for its mansions, as is implied in the well-known saying of R. Mesharshaye (end of 4th cent.), 'Better on the dust heaps of Mata Meḥasya than in the mansions of Pumbadita'.¹

The inhabitants of Meḥuza serve as a striking example of people who had acquired wealth. The men of this town were proverbial for laziness, fastidiousness, and love of the pleasures of the table.² The wine-drinking habits of the people were notorious, even those of the women.³ The men were noted for their wide flowing garments, which did not essentially differ from those of the women.⁴ The womenfolk did no work and were bedecked with jewellery. When Levi (2nd and 3rd cent.) declared, in Nehardea, that it was lawful for women to wear golden wreaths in the streets on the Sabbath, the whole of the town could boast of no more than twenty-four women possessing such an expensive ornament. When, however, Rabbah b. Abuhah (3rd cent.) gave the same ruling in Meḥuza, no fewer than eighteen women, in one alley alone, displayed this wreath. Another example of their wealth is furnished by the visit paid by Rabina (4th and 5th cent.) to that town. He was a charity overseer, and when he once came to Meḥuza for the purpose of collecting money for the poor, the women spontaneously offered him their golden chains and earrings, which, the Gemara remarks, were considered by them as of small value.⁵ The women of Meḥuza were not the only possessors of much jewellery, for we also read of the daughters-in-law of R. Kahana (4th cent.) and those of a certain man of Pum-Nehara called Non, who

¹ Keritot 6a.

² Shabb. 109a מופנך, Hull. 58b.

³ Ketub. 65a; Ta'anit 26a; Berliner, 41-2; Yawitz, vii. 8.

⁴ Shabb. 12a, 112a.

⁵ Doing no work, Shabb. 32b, 33a. Jewellery, *ibid.* 59b; B.K. 119a; Berliner, *ibid.*

possessed so much jewellery that they placed very little value on these articles.¹ It would hardly be possible to cite all the instances found in the Talmud of people who had amassed great wealth; it will suffice if we mention some of the Rabbis who were known to be wealthy, and these were: Abba b. Abba, the father of Samuel (3rd cent.), R. Huna (d. 297), his colleague and disciple R. Hisda (d. 309), R. Huna b. Hiyya (4th cent.), Raba (d. 352), his disciple R. Papa (d. 372), and R. Ashi (d. 427).² Other examples will be quoted as the occasion demands.

Having examined the wealth of some of the ordinary people we can proceed to consider that of the head of Babylonian Jewry, the Exilarch, whose wealth is not to be measured by the ordinary standards, but by comparison with that of kings. His palace together with the quarters of his huge retinue of officers,³ servants and slaves,⁴ filled a whole town, which was called 'The town of the Exilarch' דאִיסקרתא (Pers. and Arab. = town).⁵ At the side of his palace was a large orchard with a banqueting hall in its midst בבוסתניה אבוורנקא Pers. *korengah*, Arab. *khawarnak* = banqueting hall).⁶ Among his servants mentioned in the Talmud are the florists מנדלי הושענא, who were once instructed by Rabbah (d. 320);⁷ the chefs בורדקי (Gr. = pastry cooks)⁸ who were guided as to festival ritual by R. Papi (4th cent.); the table-stewards אבוורנגרי (Pers. = *Khwanagar*), who were advised by R. Hama (4th cent.) how to perform their duties during a festival week;⁹

¹ Me'ilah 19a.

² See Shabb. 119a, Yebam. 46a, the children of R. Papa b. Abba. Also Bekorot 31a R. Huna b. Hiyya. R. Papa Pesah. 111b. R. Huna, Ta'anit 20b. Raba, ibid. 21a. R. Hisda, M. Katan 28a. See Yawitz, vii. 12-13.

³ B.K. 59.

⁴ 'Erub. 59a; cf. Kraus, ii. 362, note 346. See Kohut.

⁵ 'Erub. 25b. See Kraus, i. 50, notes 644-5.

⁶ Pesah. 40b. See Rashi and 'Aruk בורדק.

⁷ M. Katan 12a. See Rashi and 'Aruk אכננרי.

⁸ Shabb. 58a.

⁹ Sukkah 37a.

and the ostlers who were once reprimanded by R. Huna b. Hiyya (4th cent.) for desecrating the Sabbath.¹ At his table there could always be found a large gathering of scholars whose number, on many occasions, exceeded a hundred; for we learn that R. Hama b. Bozi (4th and 5th cent.) endeavoured to recite the grace after meals in companies of a hundred.² Even ordinary members of the Exilarch's family would be carried about with great pomp in gilded sedan chairs covered with the richest cloths. This is shown by the story of R. Nahman b. Isaac, who once saw R. Nahman b. Jacob (d. 320) being carried about in this manner, and being under the impression that he was an ordinary member of the Exilarch's household, refused to pay homage to him.³

Some of the wealthy and powerful families abused their wealth and power for oppressing their poorer and weaker brethren. If people were indebted to them, they did not take the trouble to claim their debts through the courts, but would compel repayments by means of their retainers. Thus there is mention of a powerful family in Nehardea with whom R. Ahi b. Yashayah (2nd and 3rd cent.) of Huzal had some dealings. This family was influential at the Persian court, and could impose its will upon others by force. In the days of R. Ashi the family of Alyashib was well known to enforce payment of debts without resorting to the courts. Another instance is furnished by the case of Mar Aha, whom Rabina forced to wait twelve months before granting him an authorization to seize his debtor's property, for the reason that had the property once reached his hands, it would have been beyond the power even of the Jewish court to cause him to relinquish his hold upon it, if the necessity had arisen.⁴ The pride and arrogance of some of them knew no bounds,

¹ Shabb. 156a.

² Berak 50a; Funk, i. 35. See Kraus, iii. 42, notes 300-1. ³ Gitt. 31b.

⁴ Ahi b. Yashiah, Gitt. 14b. Alyashib, ibid. 14a. Rabina, B.K. 112b.

and we read of a wealthy man who had the temerity to flout the authority of Rab and refused to attend his court because he felt it beneath his dignity to be called for trial against a poor litigant.¹ Such was the terror these people inspired that those having lawsuits with them had great difficulty in finding witnesses willing to come to court and give evidence against them. An instance of this is furnished by the case of Mari b. Isak, whose brother came from Hozae and claimed half the possessions he had inherited from his father. Mari raised a doubt as to the claimant's identity, and when the latter was required to furnish evidence for substantiating his claim, he replied that the witnesses were afraid to give evidence against the powerful Mari. R. Hisda therefore told Mari that it was for him to disprove his brother's claim. When the latter protested that it was for the claimant to prove his case, R. Hisda answered: 'In this manner do I find it necessary to deal with you and all powerful men such as you.'² In the days of R. Joseph we read of a powerful man who caused much trouble to one of the scholars while the latter was afraid to retaliate on his persecutor.³ It was this class of people that R. Nathan b. Abba had in mind when he declared, in the name of Rab, 'The wealthy of Babylonia are destined for Gehenna', and to whom Raba referred when he said, 'The higher social classes of Meḥuza are the future inhabitants of Gehenna'.⁴

In sharp contrast to these expressions is the statement made by R. Ishmael b. R. Jose (2nd cent.) that the wealthy of Babylonia are to be praised for the honour they pay to the Torah,⁵ and from examples that will be adduced it will be seen that the same could be said for the centuries following.

¹ Rab, Jer. Nedar. ix. 4; Halevy iii. 451, note 107.

² B.M. 31b.

³ Rab. Bezah 32b. Raba, Rosh Hashanah 17a. *משפירי שפירי דמחוזא* M. Katan 17a and b.

Bacher, 63.

⁵ Shabb. 119a; Yawitz, vii. 11, note 5.

Indeed, the majority of the rich Babylonians sought to alleviate the sufferings of their poorer brethren by means of their wealth and power. The philanthropy practised by some of them, as portrayed in the Talmud, was of such a generous nature as is practically unheard of in our times. Many examples are found in the Talmud of the solicitude shown by the wealthy for the welfare of their poor brethren. It will suffice here to adduce two of them, and others will be quoted when required by the subject. R. Huna was a well-known philanthropist. It is related of him that he would be carried round the town in a gilded sedan chair, in order to inspect the walls of houses, and any found in an unsafe condition he caused to be demolished. When the owners were not in a position to rebuild the walls themselves, he would do so at his own expense. On Fridays, the weekly market-day, he would buy up all the vegetables left on the hands of the gardeners, in order to encourage thereby a plentiful supply on the market, at a reasonable price for the poor. Before sitting down to a meal, he opened his door and extended an invitation to all who were in need to come and partake of it.¹ His disciple, R. Hana b. Hani, furnishes the second example. R. Hisda, while passing the ruins of R. Hana's house in the company of 'Ulla, remarked to the latter: 'In this house sixty bakers were kept continually working, by day and by night to provide for all who were in need; R. Hana himself kept a store of money at hand so as to be able to help people in distress at a moment's notice; the doors opened on all four sides of the house and all who entered hungry left fully satisfied; in times of scarcity and famine he placed wheat and barley outside the house, for all to come and take freely, so that even those who were too proud to receive alms could come and take for themselves at night, without any one being aware of the fact.'²

¹ Ta'anit 20b.

² Berak. 58b; Funk, i. 106, note 6. For other examples see Berak. 18a,

The Babylonian Jews did not rely solely upon voluntary acts of philanthropy for relieving the wants of the poor; they also possessed an extremely well-organized system for collecting alms, and people were taxed according to their means, to contribute towards the special fund for the purpose. Thus Raba once assessed R. Nathan b. Ami for no less a sum than four hundred zuz—a large amount in those days.¹

Jer. Pe'ah viii. 8, the father of Samuel. Shabb. 54b, Ketub. 67b, Mar 'Ukba. Ta'anit 5b, R. Nahman. See also Kraus, iii. 71-3, notes 490-1; Funk, i. 111 and ii. 76.

¹ B.B. 8b, Ketub. 49b. See Funk, i. 39 for charity organizations. Cf. B.M. 77b: to obtain a thousand zuz an average person would have need to sell many of his possessions.

II

LAND OWNERSHIP

AGRICULTURE was among the important, if not the most important, of the occupations followed by the Babylonian Jews. Such may be inferred from the request made by Raba to his disciples: 'I beg of you, do not come to the academy in the months of Nisan and Tishri (during harvest, wine, and oil-pressing seasons), that you may not come to want (the whole year)', and there is nothing to indicate that the students and Rabbis were engaged in the cultivation of the soil to any greater extent than the general Jewish population. Such, too, must have been the conditions prevailing among the people during the century preceding and the one following that of Raba. This would account for the question put to Rab by his disciples concerning the advisability of the students who dwelt in the villages among the valleys coming to the academy very early in the morning and leaving it late at night;¹ from which it is only natural to conclude that many of his students were farmers or farm labourers.

As agriculture is not a very lucrative calling, unless carried on on a very large scale, the majority of the people who did not possess large tracts of land were no doubt poor. This, then, is clearly the reason for the statement of the Rabbis (mentioned in the previous chapter) that the Babylonians were, on the whole, poor. This fact has been well emphasized by Raba: 'A hundred zuz invested in business will give a sufficient return to enable one to eat meat and drink wine; a hundred zuz in agriculture will enable a man to eat only vegetables with salt, besides entailing on him the discomfort of sleeping on the ground at night to guard his

¹ Raba, Berak. 35b. Rab. Pesah. 8b. See Funk, i. 21 and ii. 43 and 68; Halevy, iii. 454.

plot, and the strife in which he may become involved with his neighbours.¹ This remark of Raba should not be taken as a mere rhetorical flourish, but was the result of actually observed conditions; for the people who had acquired wealth were known, in most cases, to have done so by other means than by agriculture. Mehuza was considered the wealthiest Jewish town in Babylonia, and most of its inhabitants were business men.² Apart from business, there were various industries which served as a means of bringing wealth to many. Thus the brewing of beer was the cause of the wealth acquired by R. Hisda in the third and R. Papa in the fourth centuries.³ Business, as a surer means of acquiring wealth, was not confined to the time of Raba (d. 352); Rab in the preceding century is found expressing himself to the same effect. Whilst walking amid the standing ears of corn, and seeing how they were swaying in the breeze, he addressed himself to them, and observed, 'Swing yourselves as you will (be as proud as you will) trading in business brings more profit than you do'. His disciple R. Eleazar (d. 279), a Babylonian who subsequently emigrated to Palestine, observed a field being ploughed crosswise, and addressing himself to it, he said: 'Even if you were to be ploughed lengthwise, trading in business brings more profit.'⁴ This advice of the Rabbis did not have the effect of taking the people away from the land. A great number, however, acting according to the advice of R. Papa, that a man should produce the food for his own consumption,⁵ actually did combine work on the land with some other handicraft or with business. This is illustrated by incidents in the lives of many of the Rabbis, as will subsequently be shown.

But even the Rabbis who favoured trade as an easier

¹ Yebam. 63a מזה זמן בעסקא, Kraus, ii. 252.

² Gitt. 6a. See Chap. I above for Mehuza.

⁴ Both in Yebam. 63a.

³ Pesah 113a.

⁵ Ibid.

means of making a livelihood agreed that it was essential for every man to be the owner of at least some land. The same R. Eleazar who preferred business to agriculture maintained that any one who did not possess real estate was not worthy of the name of man.¹ Land too was, in those days, the safest form of investment, as it could not be stolen, lost, burned, or destroyed, and though it would sometimes happen that people were despoiled of their land, they could subsequently reclaim it in the Persian courts.² It is easy, therefore, to understand the advice of R. Isaac (a Palestinian who emigrated to Babylonia (3rd and 4th cent.)), that a man should divide his possessions into three parts; one-third should be made up of real estate, another third should be invested in business, and the rest should be kept in cash.³ The people of Meḥuza, we learn, would save their surplus money in their celebrated money-bags, and, when opportunity offered, invest it in real estate.⁴

The law that a widow could claim her כתובה (marriage portion) only from the landed estates of her deceased husband has an important bearing on our subject, as it throws a light on the fact that the majority of the people possessed at least some real estate. This law held good in Talmudic times; in the Geonic period, however, the law was amended to enable her to claim any kind of property, because by that time a great change had come over the economic conditions of the Jews in Babylonia, and instead of the majority possessing land, the reverse was now the case.⁵ This enactment was formulated by the Geonim R. Huna Mar Halevi b. R. Isaac together with Mar R. Manasseh b. R. Joseph,

¹ Ibid.

² Gitt. 58b.

³ B.M. 42a ישיש אדם את מעותיו.

⁴ Ketub. 67a ארנקי דמחוזא.

⁵ Ibid. See Rashi on the word פרנא, and Tosafot on the word נמלים. See Tykocinski Ps. 35-62 for all the evidence on the subject; also Yawitz ix. 195, and Letter of Sherira, Gaon iii. 6.

both of Pumbadita, in collaboration with R. Biboi of Sura, between the years 785 C.E. and 788 C.E. The Geon Moses b. Jacob of Sura, of the first half of the ninth century, writes concerning this enactment: 'The Rabbis have enacted that a widow should be able to claim her כתובה, and a creditor his debts from the movable estates of the orphans, because most people possess no landed estates, the later Rabbis have, therefore, made this enactment, not to close the door on the granting of loans, and that a woman should have something to rely on for her כתובה.' It is readily understood that such a great change in the economic conditions did not take place all at once, but must have had its origin in the troublous times that came upon the Jews of Babylonia, from the eleventh year of the reign of Peroz, 470 C.E., onward. A somewhat similar inference can be made from the fact that a פרוחבול could not be made unless there was some real estate as security for the loan, for the reason that it was not usual to grant loans unless there was such security. This law is given in a Baraita which, of course, refers to Palestine, but in the Talmud it is made clear that the law was the same in Babylonia, because, no doubt, the conditions were similar.¹

In order to prove indisputably how thoroughly the Jew had become identified with the soil in many parts of Babylonia, it will be desirable to give some examples, in chronological order, of Jews as landowners both on a large and a small scale for the whole of the period under review. The most important of all the landed proprietors was, of course, the Exilarch. It has already been mentioned that the town where he resided, together with his orchards and gardens, was his private property. We also learn that his possessions in land and houses were so great that he would sometimes allow people to cultivate his fields and dwell in his houses

¹ Gitt. 37a. See Rashi and Tosafot on *על הקרקע*. For *פרחבול* in Babylonia see *ibid.* *רב אשי מקני ליה נמרא דריקלא*.

free of all rent, in order to save them from becoming derelict for want of proper attention. For this reason one could not claim title to the property of the Exilarch because of having enjoyed three years undisturbed possession.¹ Mention is found in the Talmud of his grain-heaps, and it is related that an informer once indicated the grain of the Exilarch to some powerful robbers.² Besides the Exilarch, a private person called Natazai is mentioned by R. Nahman (d. 320) as the sole possessor of a whole town that bore his name.³ The great Jewish landowners זְהָרָוִי (Arab. = field) were wont to buy from the agents of the Crown the land that had been confiscated for the Taska, or land tax, and it was declared in the name of Samuel (d. 254) that such transactions were valid even according to Jewish principles.⁴ We also learn that the valley near Meḥuza, called מְחוּזָא, 'The neck of Meḥuza', was in the possession of its Jewish inhabitants, and that they reared droves of cattle upon the unripe corn that grew in the valley.⁵ As already mentioned, the people of this town invested their savings in landed estates.

From what is related of the possessions of Abba b. Abba, the father of Samuel, and of those of his descendants, an idea can be formed of the size of some of the private estates. Abba b. Abba (2nd and 3rd cent.) was a man of great wealth and possessed much landed property. The amount of produce from his land around Nehardea was so great that when his goods were placed on the market they tended to keep the price of grain from rising for a long period. It was a principle of his to inspect his land twice every day.⁶ His son

¹ B.B. 36a מְחוֹקֵינָן בְּהוּ וְלֹא see Rashbam.

² B.K. 116b.

³ 'Erub. 59a.

⁴ B.B. 55a זְהָרָוִי דִּבְבִין וּב'.

⁵ Ibid. 36a; see Rashbam.

⁶ His wealth, Berak. 18b; Bekorot 44b; Jer. Pe'ah viii. 8. Produce, B.B. 90b. Inspect land, Hull. 105a.

Samuel no doubt inherited much of his father's property, for we read of his vineyards, date-palm groves, and fields, which he used to inspect every day. When he brought the produce of his land to the Nehardea market at the dear season, it tended to lower the price of such commodities. Both father and son would therefore wait for the opportune moment to place their goods on the market, in order to reduce the price of the articles for the benefit of their brethren.¹ Most of Samuel's property was inherited no doubt by his only son, who owned, in addition, vast estates in the extreme south of Babylonia on the נהר פניא. These possessions included land, houses, and ships. In his will the son of Samuel left to Raba the large amount of 13,000 zuz from the עללתא income of his נהר פניא possessions, and R. Joseph was consulted for the purpose of determining to what the expression עללתא could be applied; whether only to the produce of the soil or also to the rent of houses and ships.² This instance is of great importance as showing how widespread were the possessions of some of the Jews in Babylonia; for b. Mar Samuel dwelt, no doubt, in the north of Babylonia, either in Nehardea, the town of his father, or in Meḥuza, where Raba lived, while a great part of his possessions lay on the נהר פניא in the extreme south of Babylonia.

Rab (d. 247), the great contemporary of Samuel, in spite of his predilection for business (above, p. 34), was himself the owner of much land, no doubt in the vicinity of his academy in Sura, a town on the Nehar Sura, in the district of ancient Babylon. He was once given money by his nephew Rabbah b. b. Hana to buy a field for him in a certain valley; observing,

¹ Samuel's dates and vines, B.K. 92a. Inspecting fields, Hull. 105a. Produce, B.B. 90b.

² Nedarim 55a. See discussion in Gemara as to meaning of עללתא. See Yawitz, viii. 57.

however, that the adjoining fields belonged to some powerful Jews who would not allow a stranger to take possession of a field in their midst, Rab bought it for himself, knowing that he would not be molested because of the respect with which they regarded him.¹ One of his gardens in which vegetables were cultivated was set aside for the benefit of his numerous disciples, and its produce contributed a great deal towards their support. In this garden every species of plant was sown in a separate bed.² R. Asi, the younger contemporary of Rab, whose death followed close upon that of the latter, was also an owner of land, most likely in his native town of Huḏal, which was situated somewhere between Nehardea and Sura. Following the advice of Samuel, he surveyed his fields every day, and was once rewarded by stopping in time a freshet which threatened to flood his property.³

The great disciple of Rab, R. Huna (d. 297), who succeeded him as Head of the Sura Academy, became wealthy in his later years and was the owner of large estates. He possessed a large vineyard, which he let to an אֲרִיס metayer. The produce of it was so great that, of his share alone, four hundred barrels of wine turned sour in one year.⁴ We also read that he bought ground from a heathen, but that before he had time to acquire it legally, another Jew took possession of it.⁵ In his less prosperous days he was known to have worked his fields himself. He is once mentioned as being seen carrying a spade on his shoulder and his disciple R. Hana b. Hinilai sought to relieve him of it, but R. Huna refused, remarking that work honours the worker. When people came to him with their disputes, while he was engaged in working his field, he would ask them to supply him with a

¹ Kidd. 59a באנא דאילמי הוה.

² Ibid. 39a גינתא דבי רב משארי משארי.

³ Hull. 105a. Huḏal, Megillah 8b. See Obermeyer, 299.

⁴ Berak. 5b.

⁵ B.B. 54b.

substitute to do his work, so that he could spare the time to act as judge for the settling of their disputes.¹ There is also mentioned the case of a Jew called Papi who was compelled by a powerful and unscrupulous fellow Jew called Tabi to sell him his field. Rabbah b. b. Hana was a witness both to the declaration of protest against the sale, and to the deed of sale. As the case was subsequently brought before R. Huna, it must have taken place in the district of Sura, over which he had jurisdiction.² A similar case is that of Giddol b. Minyomi, whose land was in the illegal possession of another. He made his declaration of protest before R. Huna, Hiyya b. Rab, and R. Hilkiyah b. Tobi.³ R. Hilkiyah was also the owner of land which he cultivated himself. His method was to sow one half and allow the other half to lie fallow; in the following year he reversed the order, with the result that the wheat he produced was of the finest quality.⁴ In the days of R. Nahman there was a scarcity of food in Nehardea, and people became so reduced in circumstances that many sold their houses to obtain the means wherewith to buy food. The grain ships were subsequently found to have been near the city, and the question was raised as to the validity of the sales.⁵ We also read of R. Nahman giving the house of a bailee to the owner of some jewellery which the bailee had mislaid.⁶ Of R. Kahana (3rd cent.) it is related that his field happened to be flooded, and the landmark which divided it from the adjoining field of a fellow Jew was swept away. On rebuilding the fence it was found that he had unintentionally moved the landmark some distance into his neighbour's field, and the dispute that arose in consequence of this was brought for settlement before R. Judah.⁷

R. Daniel b. Kattina of the third century possessed a

¹ Megillah 28a, spade. Ketub. 105a, judge.

² B.B. 48b.

³ Ibid. 39b.

⁴ Menahot 85b.

⁵ Ketub. 97a.

⁶ B.M. 35a.

⁷ B.B. 41a and b.

vegetable garden which he cultivated himself, the various species of plants being arranged in different beds.¹ R. Hanan and R. 'Anan (of the same century) while on a journey observed a Jewish farmer sowing his field without taking heed of the prohibition concerning the mixing of different species. Proceeding on the journey, they saw another Jew sowing wheat and barley among the vines.² Jewish farms and vineyards, it appears from this, could be encountered wherever one went in Babylonia. This R. 'Anan also owned some land which lay next to that of another Jew. Owing to a flood, the landmarks separating the fields were swept away, and the setting up of a new landmark gave rise to litigation between the neighbours.³

Rabbah (3rd and 4th cent.), the son of R. Huna, who probably inherited most of his father's possessions, is mentioned in connexion with a wood he possessed on the banks of a canal, and which adjoined the wood of Parzak Rufila (an important Persian Government official). The wood was most likely in the district of Sura, where Rabbah lived.⁴ We also read of woods on the banks of a canal belonging to the Jewish inhabitants of Mashronia, which, by the orders of R. Nathan b. Hoshiya, of the fourth century, were cut down along the banks to a depth of sixteen cubits, an act which the owners rightly resented, and expressed their resentment in a very forcible manner.⁵

R. Joseph (d. 323), the Principal of Pumbadita Academy after Rabbah, was the possessor of much landed property. Mention is made of his date-palm groves, vineyards, and grain-fields. Surgeons had formed the habit of sitting beneath his young date-palms to perform the operation of blood-letting, thereby causing ravens to gather there and damage his dates.⁶ R. Joseph himself was accustomed to

¹ Ta'anit 9b.

² Kidd. 39a.

³ B.B. 41a.

⁴ B.M. 107b.

⁵ Ibid.

⁶ B.B. 22b, 23a.

work in his grain-fields and vineyards. His method of vine culture was so excellent that the wine produced by him was twice the usual strength.¹ Contiguous to his vineyard lay the date-palm grove of Raba b. Ḥanan. This was a source of grievance to R. Joseph, as the birds, attracted by the palms, caused much damage to his vines.² R. Abba, a contemporary of R. Joseph, while yet in Babylonia bought a field for which R. Giddol was negotiating. On being informed of this by R. Isaac נפחא, who happened to be in Babylonia at the time, R. Abba refused to retain the field, and as R. Giddol also would not take it, the field, remaining ownerless, was placed at the disposal of the scholars of the academy.³

Abaye, the Principal of the Pumbadita Academy (d. 338) was also the owner of much land, some of which he worked himself, while for the rest he employed a metayer. R. Shimi b. Ashi, desiring to be taught by Abaye, requested the latter to fix a time when he could teach him, to which he replied that it was impossible, as he was engaged in lecturing all day, and in attending to his fields in the evening. R. Shimi therefore undertook to attend to the fields during the day, thereby enabling Abaye to instruct him at night.⁴ Abaye was in the habit of surveying his fields every day, and during one of these inspections he once discovered his metayer carrying away some of his wood. This is also cited as an example of the wisdom of Samuel's advice that one should inspect his fields every day.⁵ His son R. Bibi no doubt inherited the possessions of his father, for he too is mentioned as the owner of land. Palms growing in one of his fields belonged to a certain woman, and this was the cause of friction between them, as it

¹ Grain-field, Kidd. 39a. Vineyard, B.B. 26a, Menahot 87a.

² B.B. 26a.

³ Kidd. 59a. ארעא דרבנן for the benefit of the scholars, Rashi.

⁴ Gitt. 60b.

⁵ Hull. 105a.

was necessary for her to pass over his field in order to reach the palms.¹

Raba (d. 352), the great colleague of Abaye, who, after the death of the latter, transferred the academy to his native town of Meḥuza, was a very wealthy man, and in this respect considered himself the equal of R. Huna.² He was the owner of great estates, the cultivation of which he entrusted to metayers.³ At that time the Arabs made an irruption into Pumbadita and despoiled many Jews of their land. Some of the victims were compelled to part with the deeds of their properties, and this caused much distress, as the owners would subsequently have found great difficulty in proving title—they therefore came to Abaye with the request that duplicate deeds should be given them.⁴ We also read of a case where leathern wine-bottles were found in a Jewish vineyard and, as most of the wine producers in the district were Jews, Raba ruled that the wine was ritually fit for use.⁵

R. Papa (d. 372), the great disciple of Abaye and Raba, who established the academy in his native town of Neresh, which lay to the south of Sura on the Nars Canal, included land cultivation among his many-sided activities. In his younger and less prosperous days he acted as a metayer for others.⁶ Later, after he became wealthy by turning brewer,⁷ we find him buying land from a fellow Jew for the cultivation of sesame. The amount of oil produced from the field fell far short of his expectations. The case was brought before Abaye, who ruled that the sale was valid.⁸ R. Papa is also mentioned as the possessor of a date-palm grove, the roots of which penetrated into the adjoining field of R. Huna b. Joshua. The question thus arose as to how much of the roots

¹ B.B. 137b.

² Ta'anit 21a.

³ B.M. 73a.

⁴ B.B. 168b. For Arab incursion, see Rawlinson, 145-6.

⁵ B.B. 24a and b.

⁶ B.M. 109a.

⁷ Pesah 113a.

⁸ B.B. 106a.

the latter was justified in cutting away.¹ While R. Papa and R. Huna b. Joshua were still students in the Academy of Raba, they are mentioned as each buying a small field on the produce of which they were able to maintain themselves.² The former once bought a field from a man who intended to invest the proceeds in cattle-breeding; as the vendor did not carry out his design, his land was returned to him by R. Papa.³ His son, R. Nahman, is mentioned as the owner of a vegetable garden, which he himself cultivated.⁴ At that time we read of a man called Giddol b. Railai, who possessed a field in a certain valley adjoining those of his fellow Jews. Owing to absence, the owners could not attend to their fields; they had therefore arranged with Giddol that he should pay the Taska (land tax), which was due from them, and enjoy the usufruct of their fields. Giddol, taking advantage of this, paid the tax to the government for three years in advance. In the second year, however, the owners returned and claimed their fields. Giddol counterclaimed from them the two years' tax which had already been paid by him, the benefit of which they would now enjoy. The case was brought before R. Huna b. Joshua, who ruled that Giddol was not entitled to it.⁵

Mari b. Isak, who lived in the fourth century in the district of Sura, was a wealthy and powerful man, and the owner of much landed property, part of which he inherited from his father. A younger brother of his came from Hozae and claimed a share of the inherited property, which included both orchards and vineyards. As the case was brought before R. Hisda, it must have occurred before the death of the latter in the year 309. At a much later period in the life of Mari we read that Amemar, Mar Zutra, and R. Ashi (d. 427) once visited his orchard and the metayer regaled them on dates and

¹ B.B. 26a.

³ Ketub. 97a.

² Horiyot 10b; Halevy, iii. 453.

⁴ Hull. 60b.

⁵ Gitt. 58b.

pomegranates.¹ R. Ashi, too, who was the Head of the Academy of Mata Mehasya, was very wealthy and possessed much land. We read of his wood in Shelanya, which he once sought to cut down during a festival week. On another occasion he is mentioned as selling a wood to the fire-worshippers.² After his death, his daughters claimed from his son Mar and his grandson b. Sama their share of the inheritance. The land which Rabina allotted to them as their share was of two different qualities.³ Rabina, the elder contemporary of R. Ashi, possessed land on all four sides of a field belonging to Ronya, and the question arose whether Ronya was liable to contribute towards the expense of the fences erected by Rabina, as he, too, benefited by the protection they afforded. As the case was brought before Raba, it must have happened some time before the death of the latter in 352. Ronya is mentioned as subsequently buying another field adjoining those of Rabina. He was also employed by Rabina as his planter, but as he proved inefficient Rabina dispensed with his services.⁴

There is a long discussion in the Talmud as to whether, when people are taken captive, their nearest relatives should be allowed to manage their estates until the owner's return. One such case happened in Nehardea in the third century, and R. Sheshet ruled that the relatives should not be entrusted with the management. Another case that happened in the fourth century was that of a woman with three daughters, one of whom was taken captive together with the mother. Of the two who were left, one died, leaving a son who was a minor as sole heir. The question of the management of their estates caused a difference of opinion between Abaye and Raba.⁵

¹ B.M. 22a and 39b, above, p. 30.

² M. Katan 12b, Nedar. 62b. See Kraus, ii. 200-1.

³ Ketub. 69a.

⁴ B.B. 5a רבניא אקפיה וכו'. Planter, B.M. 109a; Halevy, iii.

⁵ B.M. 38b. In Nehardea 39b הריא סבתא.

In connexion with the law of inheritance many cases of people leaving much landed property at death are mentioned in the Talmud. A few may be cited here. There is the case of b. Zirzor, whose estate happened to increase in value after his death, and the question as to how it should be divided between the children of his first and second wives was brought before R. 'Amram (3rd cent.).¹ In the fourth century we read of a man in Pumbadita who died childless, leaving large estates. The elder brother, who was to perform the Levirate marriage which carried with it the right of inheritance, promised his younger brother, who sought to obstruct the performance of the rite, that he would share with him the estate of the deceased, an undertaking which according to the rule of R. Joseph was not binding. A similar case happened in Mata Mehasya, late in the fifth century, when Mar b. R. Ashi was Head of the Academy.² As a last instance we will mention the case of Mari b. Isar, whose children, Mar Zutra and R. Ada Saba, divided the inheritance between them without any witnesses being present. They subsequently questioned R. Ashi as to whether such a division was binding.³

There are also records of Jews selling their houses and land for the purpose of emigrating to Palestine. Two of the cases mentioned were in the days of Raba in the fourth century, and one in the time of R. Ashi, at the end of the fourth or the beginning of the fifth century.⁴ Incidentally, this throws a vivid light on the wonderful love for Palestine felt even by the ordinary Babylonian Jew of those times; for, during those two centuries, the life of the Jew in his own

¹ Ketub. 91a.

² Ibid. 81b, 82a. The inheritance of the deceased reverts to the brother who performs the rite. The younger brother sought to obstruct the rite by giving the widow a bill of divorce. See Gemara and Rashi there.

³ Kidd. 65b; also B.B. 111a. Many other instances.

⁴ Kidd. 49b and 50a. See Funk, i. 147-8.

land had become practically intolerable, and to escape the relentless persecutions of the Roman emperors a great number of the leading Rabbis had sought refuge in Babylonia; nevertheless, there were to be found Jews in Babylonia who were prepared to live under persecution and brave all hardships so long as they were privileged to tread the holy soil of Palestine.

There are also many instances of lenders taking borrowers' land as security for the loan, and of creditors claiming debtors' lands for their debts.¹

As will have been noticed from some of the examples adduced, women possessed land in their own right. We will cite here a few typical illustrations found in the Talmud. The mother of Rami b. Hama made her will in his favour on the morning of a certain day, and in the evening of the same day she changed her mind and wrote another will in favour of his brother R. 'Ukba. After her death, the question as to who had title to her property gave rise to a difference of opinion between R. Nahman and R. Sheshet.² A somewhat similar case is that of the sister of R. Tobi b. Matna, who wrote her will in his favour in the morning and in the evening of the same day changed it in favour of her other brother R. 'Ahadboi. This case was also brought before R. Nahman. Another curious case was that of R. Dimi b. Joseph's sister, who possessed a vineyard which she was accustomed to give to him whenever she felt ill and reclaim it on her recovery. This also happened in the days of R. Nahman (d. 320).³ We also read of a woman of the same period entrusting a man with money to invest in land for her.⁴ At the end of the fourth century, the mother of R. Zutra b. Tobiyah, before entering on her second marriage with R. Zabid, made a deed

¹ B.M. 66b, 67, 68a, 72a; B.B. 40b, and innumerable instances.

² B.B. 151a. Another case, Ketub. 94b.

³ B.B. 151a.

⁴ B.B. 169b.

of gift of her property to her son. After being divorced by R. Zabid, she sought to cancel the deed, and the question as to whether it lay within her power to do so was brought before R. Bibi b. Abaye.¹

The many examples given here do not by any means exhaust all the evidence in the Talmud as to Jews being owners of real estate in Babylonia. They are sufficient, however, to indicate how completely, throughout the period of the three centuries with which we are dealing in this work, the Jew had become attached to the soil in all parts of the country. Nearly all the people, whether rich or poor, scholars or peasants, men or women, were either owners of land or houses, or were associated in one form or another with the agricultural work of the country; and the force that gave an impulse to their agricultural activities may be said to have been the stirring message sent by Jeremiah from Jerusalem to the men of the captivity: 'Thus saith the Lord . . . unto all the captivity . . . build ye houses and dwell in them; and plant gardens and eat the fruit thereof . . . and multiply ye there, and be not diminished. And seek the peace of the city whither I have caused you to be carried away captive . . . for, in the peace thereof shall ye have peace.'² It was this message which led the exiles to build up a strong Jewish settlement in Babylonia and form there almost a second land of Israel.

¹ B.B. 151a.

² Jer. xxix. 4-7.

III

LAND TENURES

THE system by which Jews held land for cultivation in Babylonia did not essentially differ from the one prevailing in Palestine. This is quite obvious from the many instances of land cultivation in Babylonia given in the Gemara to illustrate and explain the various Mishnaic laws on this subject, which naturally deal with Palestine. The many parallel instances of land cultivation in each country, given in the Gemara as illustrations of the same law, also clearly show the existence of the same system in both countries. Whenever a difference of custom existed, it is expressly stated in the Talmud.

The following examples may be presented in support of our contention. The Mishnah lays down the law that if, in any year, a metayer does not cultivate the field he has leased, an estimate is to be made of the amount it should have produced in that year, and the metayer must pay to the landlord his contracted share of the estimated produce. This, as the Mishnah points out, is merely in accordance with the formula of the contract, in which the metayer states: 'If I neglect the field and do not work it, I shall indemnify you in full and best value בְּמִיטְבָּא.'¹ In the Gemara Babylonian contracts are drawn upon in order to illustrate and elucidate the ruling of this Mishnah.

A metayer once leased a field on contract from a landlord, and inserted a clause therein to the effect that in case of neglect he would pay the landlord a thousand zuz. The metayer, however, heedless of the clause, neglected to cultivate one-third of the field, and thus there arose the question of indemnifying the landlord. The Rabbis of the Nehardea

¹ B.M. 104a.

Academy, in accordance with the teaching of the Mishnah, ruled that he must pay the landlord a third of the sum agreed upon; Raba, however, drew a distinction between this contract and the one referred to in the Mishnah. Another instance of a metayer not keeping to his contract is the case of an 'aris who agreed to cultivate sesame, but cultivated wheat instead. Sesame, it may be mentioned, though a more valuable crop than wheat, tends to exhaust the land more. It turned out, however, that the field that year produced a good crop of wheat, which was as valuable as sesame would have been. The landlord therefore, far from losing by this change, actually benefited to the extent that his land was less exhausted. The question thus raised was whether the metayer could deduct from the landlord's share the difference in value of land exhausted by the cultivation of a sesame crop and that which had produced a wheat crop. This gave rise to a difference of opinion between R. Kahana and R. Ashi. Another instance is the case of a tenant farmer who cultivated wheat instead of the sesame agreed upon. It happened, however, that the value of the crop of wheat produced was greater than what could have been obtained for the sesame, and the question raised was whether the tenant could deduct from the amount due to the landlord the proportionate difference in the value of the two crops.¹

In connexion with the laws governing a tenant farmer in cases where the contract was for a fixed yearly rental and the crop suffered from locusts or had been blasted, the Mishnah teaches as follows: 'If the whole countryside suffered, the tenant might deduct from his rent; but if his field happened to be the only one that suffered, he could not do so; R. Judah, on the other hand, maintained that if the contract was for a money rental, he could never deduct his loss from the rent.'² With regard to this Mishnah, the Gemara cites the case of

¹ B.M. 104b; all the three cases.

² Ibid. 105b.

a tenant who leased a garden on the banks of the Nehar Malka Saba, for the cultivation of garlic, for a yearly money rental. Unfortunately, the Nehar Malka Saba became stopped up that year, affecting thereby the water-supply of the garden, with the consequence that a poor crop was produced. The question as to whether the tenant could deduct from the rent was put before Raba, who ruled that the opinion of R. Judah was not to be accepted.¹

Again, the Mishnah teaches that, if the contract was for the purpose of sowing barley, the tenant might not sow wheat, but he might change from wheat to barley, as a wheat crop exhausts the land more, and seeing that his rental was fixed, the landlord would be pleased to have his land spared; if, however, the agreement was for the corn, he might not change to pulse, but the contrary is permissible.² The Gemara cites R. Judah as having taught Rabin that the tenant farmer might change from corn to pulse. When the latter objected that the Mishnah taught otherwise, R. Judah replied that the Mishnah dealt with Palestine, where the land became easily exhausted; in Babylonia, however, the difference between the effect of corn and pulse was of no consequence.³

Further, the Mishnah teaches that if a tenant farmer makes a contract for a field for a yearly rental of ten kur of wheat, and the wheat produced by the field turns out to be of a poor quality, he may pay his rent with that grain; again, if the crop produced is of extraordinarily good quality, he must also pay his rent from that wheat. In the Gemara following on this Mishnah a case is cited of a man who rented a field to grow fodder, at a yearly rental of a kur of barley. After having sown and cut his fodder, he cultivated barley in the field; the barley turned out to be of very poor quality, and the question was raised by Ḥabiba of Sura, on the Euphrates

¹ Ibid. 106b.

² Ibid.

³ Ibid. 107a.

(5th cent.), whether the rent could be paid with the barley produced or not, to which Rabina replied that this case differed from the one in the Mishnah, the rent, therefore, could not be paid with the barley grown in the field.¹ Another case cited by the Gemara in connexion with this Mishnah is that of a man who rented a vineyard for a yearly payment of ten barrels of wine. Unfortunately, the wine produced by the vineyard that year turned sour and the tenant naturally wanted to pay his rent with the sour wine. R. Kahana, in accordance with the teaching of the Mishnah, was of the opinion that he could; R. Ashi, however, showed that this case differed from the one in the Mishnah, and ruled that the tenant must buy wine wherewith to pay his rent.²

The Mishnah teaches that the metayer takes a share of the straw and stubble, and also of the prunings of the vines and of the supporting poles. This practice of allowing the metayer a share of the straw and stubble, as R. Joseph observed, was not customary in Babylonia. With regard to the prunings of the vines R. Joseph is silent; it may therefore be confidently assumed that even in Babylonia the metayer received a share of this—a fact which is borne out by the story of R. Huna and his 'aris.³

As a last example we will cite the following. The Mishnah teaches that, if a man becomes a tenant farmer for a short period, he may not cultivate flax in the field, nor cut branches from the sycamore-trees growing there; but, if the tenancy is for seven years, he may do so, as in such a period the field will have recovered from the effect of the flax and the tree from the effect of the cutting. Discussing the teaching of the Mishnah, Abaye observes that the short-period tenant may not cut branches from the tree, but at the termination of his period he is to be given a share of the amount

¹ B.M. 106b.

² Ibid.; see Kraus, *Kadmon*. 6-7.

³ B.M. 103a and b; Berak. 5b; see Funk, i. 15; Kraus, ii. 109.

of the increased value of the tree; Raba, however, disagrees and maintains that the short-period tenant should receive nothing on account of the trees. In illustration of this difference of opinion, the Gemara cites the case of R. Papa, who was a short-period tenant farmer for the cultivation of fodder. During his tenancy, some young date-palms grew up in the field, which naturally enhanced its value. On the expiration of his tenancy he therefore demanded a share in the value of the trees. The case came before R. Shishi b. R. Idi, a contemporary of Abaye and Raba, who disallowed his claim, for the reason that it differed from the case in the Mishnah, which was the basis of the difference of opinion between Abaye and Raba.¹

The many examples here adduced clearly indicate that the same laws and customs which regulated land tenures in Palestine existed in Babylonia, and that when any difference in custom did exist it was at once pointed out in the Gemara. That it should have been so was only a natural consequence of the fact that the Jews in Babylonia enjoyed an almost autonomous life and lived in conformity with the laws and traditions of their forefathers. They therefore clung to the Palestinian laws and customs of land tenure, and adapted them to Babylonian conditions.

As will have been seen from some of the examples in the previous chapter, many of the landowners cultivated the soil themselves. This was no doubt the case with the majority of those possessing land.² There were, however, people who possessed more land than they could possibly manage by themselves, and these would naturally employ others to help them. There were also, no doubt, some whose holdings were not sufficiently large to make it worth their while to devote their time to land cultivation, and again there were others whose chief vocation in life was not agriculture but some

¹ B.M. 109a.

² See Funk, i. 16, note 3; Kraus, *ibid.*

other industry, or who devoted their time to study or commerce; these too would have recourse to the employment of others for the cultivation of their fields. The usual procedure in this connexion was either by letting the ground to tenant farmers or by hiring labourers to do the work.

Of the tenant farmers, three different classes may be distinguished: (a) the 'aris אַריס (Arab. = gardener) or metayer, (b) the hoker חוכר (Arab. = to rent land) or tenant farmer, (c) the planter שחלה. The ordinary labourers also fell into two classes: (a) the kablan קבלן or piece-worker, and (b) the worker פועל, who received a daily, weekly, monthly, or yearly wage, whether it was paid in money, in kind, or in both.

(a) *Metayer*. By far the most common kind of tenant farmer was the 'aris or metayer. The owner of grain-fields, orchards, vineyards, &c., would lease their possessions to these tenants for a certain number of years; but there does not seem to have existed any customary period for such tenancies. However, from the story of the tenancy entered into by R. Papa, given in the Gemara for the purpose of elucidating the law governing a short-period tenancy (adduced above, p. 53), it is clear that seven years was considered a long period. A not uncommon method was for the tenancy to be renewed every year. Such was the custom of Raba, who settled with his tenants every year after the harvest in the month of Iyar.¹

As payment the owners received a share of the produce, which averaged from a quarter in some places to three-quarters in others. Thus we read of a landlord saying to his 'aris: 'It is customary for all other 'arisin to water the field three times during the season, and to receive as their share a quarter of the produce; it is my desire that you should water my field four times, and in return you shall receive a third

¹ B.M. 73a 'בניסן וב' לאריסא ומסלק; see 'Aruk and Jastrow on סלק.

of the produce.' This happened in the fourth century, in the days of Rabbah and R. Joseph.¹ Again, in a case of conflicting claims, when the 'aris maintains that the agreement was for him to take half, and the landlord asserts that it was for the 'aris to receive only a third, the question is raised in the Gemara as to who should be believed. This gave rise to a difference of opinion between R. Judah and R. Nahman (both of the 3rd cent.), the former maintaining that the landlord is to be believed, and the latter that it depends on local custom. R. Mari (4th cent.) b. the daughter of Samuel remarks upon this, that R. Judah maintains his opinion even when the question arises in districts where the usual custom is for the 'aris to receive a half.² Further, there is a statement of R. Manyomi b. R. Nihomi (4th cent.) that in districts where a planter receives a half an 'aris usually receives a third. Again, from an anonymous statement in the Gemara, made in the course of elucidating a point in the Mishnah, we learn that there were districts where the 'aris received two-thirds and others where he received three-quarters.³

To account for such divergences of payment it must be borne in mind that all soils are not of the same fertility, neither can the work involved in ploughing, sowing, watering, reaping, and threshing yearly crops be compared to the tending of already planted orchards and vineyards. Again, the custom as to what should be provided by the landlord and what by the tenant varied in different places. In some districts it was usual for the landlord to supply the seed, and in such places he usually received as his share anything from a half to three-quarters of the crop, according to the custom prevailing in the district, a custom mainly determined by the fertility of the soil and the accessibility and abundance of the water-supply. When the soil was rich and water

¹ Gitt. 74b.

² B.M. 110a; see B.B. 46b.

³ B.M. 103b.

plentiful it of course entailed less work and yielded a larger return. The owner in such cases received a larger share, whilst in the case of a poorer soil and a distant water-supply he received a smaller share. In other districts the metayer had to provide the seed, and the share of the produce received by the owner in such cases varied from a quarter to a third.¹ That the seed was provided by the landlord in some districts, and by the metayer in others, is distinctly stated by Raba, in the name of R. Idi (4th cent.) (who lived either in Hinzibi or in Shekuzib, on the Tigris), in elucidating a point in the Mishnah.² The most common form of agreement, however, seems to have been for each to receive half of the produce, as may be inferred from an anonymous expression in the Gemara.³

Such were the customs that prevailed generally. Individual owners, however, would sometimes lease their fields on conditions other than those obtaining locally. If, for example, a field was of extraordinary fertility, and the local custom was for the owner to provide the seed, he would, in such a case, make it conditional for the metayer to provide the seed, and the landlord would still receive the same share of the produce as that obtained by other landlords.⁴ As to the fruit trees growing in the grain-fields leased to the 'aris, having regard to the fact that they did not require much tending, it depended upon local custom whether they were included in the lease or not. This, it is true, is mentioned in a Baraita quoted in the Gemara, but there is an indication that the same custom prevailed in Babylonia, as may be gathered from the case of R. Papa (quoted above, pp. 53 and 54), and the date-

¹ See *ibid.* Tosafot **ברבעא ויהיב הוא ואיל**; see also *ibid.* 74b, Rashi on **בִּירָא** and following. ² B.M. 74b **מִרִּי אֶרְעָא יְהִיב בִּירָא**.

³ B.B. 46b 'Does not an 'aris have a half?' The question is put in such a manner as to imply that this was the usual order of things.

⁴ B.M. 74b. See Rashi in full on **בִּירָא** and following.

palms that grew up in the field which he had leased. Another such case was that of R. Bibi b. Abaye (4th cent.), who claimed a share in the trees that had sprung up on the embankment he had raised round a field which he had rented. The claim, however, was disallowed by R. Papa.¹ As already mentioned, Babylonian custom differed from Palestinian in regard to the right of the metayer to the straw and stubble; while in Palestine he did take a share, it was not so in Babylonia. In actual practice, however, many owners in Babylonia allowed the metayer to take a share of the straw.² It was customary for the metayer to receive a share in the prunings of the vines even in Babylonia, as is evident from the story of R. Huna, who did not comply with this custom and was accordingly admonished by his colleagues.³ The conditions mentioned above were binding in ordinary circumstances only; when the 'aris and the owner drew up the agreement they could arrange any terms they thought fit.⁴

In the Gemara, R. Joseph (d. 323) states what in ordinary circumstances was to be provided by the owner and what by the 'aris. Whatever was essential for the protection of the field such as the raising up of three successive layers of earth for a border, or digging lines of trenches round the fields, and also the staves for the making of a fence, had to be provided by the owner; all additional protection, as for instance the twigs for intertwining round the staves, to strengthen the fence, had to be supplied by the 'aris.⁵ All implements for working and watering the field, such as spades, mattocks, buckets, and others of a light nature, were to be provided

¹ Ibid. 103b and 109a. ² Ibid. 103b דאי איכא איניש דיהיב

³ Berak. 5b דלא יהיב מר שבזשא לאריסא

⁴ B.M. 103b 'He should have made special provision in the contract', דאיבעו ליה לפרושי ליה. Cf. Kraus, ii. 109.

⁵ B.M. 103b טפתא (Arab. = first), טפתא (Arab. = second layer), ארכבתא (רכב = top layer), Rashi = three layers of earth as border. R. Hananai quoted by Tosafot = double line of trenches.

by the owner; the actual digging of trenches to bring water from the canal or river to the field had to be done by the 'aris.¹

As already mentioned, the metayer was generally taken for a specified number of years. There were, however, as R. Huna said, also to be found metayers who possessed a permanent lease of the ground. They could not be removed by the owners, and on the death of such 'arisin their children inherited all their rights.² From a statement of R. Naḥman we learn that there were 'arisin who sublet to other 'arisin the fields they themselves had leased.³ These were, no doubt, such as had contracted for large tracts of land which they could not possibly manage themselves, and therefore they employed minor 'arisin to cultivate the land for them.

(b) *Tenant farmer.* As will have been readily seen from many of the examples described at the beginning of the chapter, the ḥoker was a tenant farmer who leased the field, vineyard, or orchard for a fixed yearly rental, which usually took the form of a certain amount of produce, but was sometimes paid in money. The produce given as rent was usually of the same kind as that cultivated by the tenant; sometimes, however, the contract provided for another kind of produce to be paid. When the rental was of the crop grown in the field, then the tenant must give, and the landlord must receive, the produce of that field, whether it was of a good or of a poor quality. The ḥoker was under obligation to cultivate the field to the best of his abilities, and could by no means neglect his work under the plea that he would buy produce in the market wherewith to pay his rent, as the

¹ B.M. 103b מרא Funk, i. 15; Kraus, *ibid.*

² Jer. B.B. iii. 5 רב הונא אמר בארים לעולם; see parallel in B.B. 46b אבות בתי אריסי and Rashbam upon it. Cf. Kraus, ii. 110.

³ B.B. 46b רב נחמן אמר בארים שהוריד אריסין וכ'. Cf. parallel statement of R. Johanan in Jer. B.B., *ibid.*

landlord had the right to say, 'I insist on having the produce of my own field'. This is made clear in an anonymous statement in the Gemara.¹ As already mentioned, if the whole countryside suffered from drought, locusts, or any other kind of plague, the tenant was free from paying his rent, but not if his field was the only one that suffered.²

The *hoker* was under a disadvantage, in comparison with the *'aris*; as the latter was comparatively free to cultivate at will whatever he thought best, provided there was no diminution in the value of the return, and it was in his own interest as well as that of the landlord to cultivate what brought the largest return, even when such a crop tended to exhaust the land sooner than would have been the case with a less profitable one;³ but the *hoker* was restricted in his choice of crops for, as his rental was fixed, it was in the interest of the landlord to spare the land from exhaustion as much as possible. The *hoker* could not therefore cultivate such crops as tended to exhaust the soil more than the crop for which the contract was made. If, for example, the contract was for barley, he could not cultivate wheat, which, although more profitable, tended to exhaust the soil sooner; he could, however, cultivate any crop that exhausted the soil less, even if it were a less valuable one, for, as his rental was fixed, the landlord lost nothing thereby. As already mentioned at the beginning of the chapter, if the difference between the two crops was only slight, as for instance, between grain and pulse, the restriction was not enforced in Babylonia as it was in Palestine, because the soil of Babylonia was more fertile.⁴ The *'aris* was therefore in a much more advantageous

¹ B.M. 105a.

² Ibid. 105b, 106a and b.

³ Ibid. 104b. The *'aris* who cultivated wheat instead of sesame, cf. Funk, i. 16.

⁴ B.M. 106b, 107a. See Rashi 106b on המקבל שדה לורעה שעורין. See Kraus, ii. 182.

position; for he could vary his crop to increase the return as much as he pleased; as R. Ashi declared, the popular saying was: 'Rather let the land deteriorate (become exhausted by strong seed) than that its owner become reduced (by smaller returns).'¹ Again, in bad years the 'aris was not the sole sufferer, as the landlord received his share only from that which was actually produced. Taking all this into consideration, it is not surprising to find that the metayer system was more popular than that of the tenant farmer.

(c) *Planter*. The שחלץ (planter) was in reality a metayer, but with this difference: that, as the result of his labours was more permanent, so also was his position. He was employed to plant vineyards and orchards, and his engagement was usually for life, unless he were found to be incompetent, when his engagement could be terminated at once. Thus Ronya, who was the planter of Rabina, was found to be incompetent, and had his engagement terminated by the latter. When Ronya complained to Raba that no notice had been given him, he was given to understand that a planter has no right to notice, since the damage done by him cannot be remedied.² The planter always had the option of cancelling his contract, and he would then receive an estimated amount for the permanent improvement effected by him, less the estimated loss entailed on the landlord by having to give the orchard or vineyard into the keeping of an 'aris. Thus we read of a planter who cancelled his engagement because he wanted to emigrate to Palestine, and the amount due to him for permanent improvements was calculated on this basis by R. Papa b. Samuel (4th cent.).³ With the death of the planter his engagement terminated, the children or heirs having no claim upon the landlord, except for their father's share of the permanent improve-

¹ See previous note.

² B.M. 105a, Mishnah and Gemara.

³ Ibid. 109a.

ments. In actual practice, however, the children were usually employed in their father's position. This may be gathered from the case of the planter of R. Joseph, who died and left five sons-in-law, all of whom desired to remain planters in his stead. R. Joseph, fearing that loss would be sustained by him if he employed all the five, hastily terminated the engagement, by giving them their father-in-law's share of the permanent improvement.¹ It seems clear from the Gemara that had there been only one heir he would have succeeded his father-in-law. As we have already had occasion to mention, the share of the produce taken by a planter was usually a sixth more than that taken by the 'aris; 'Where the planter takes a half and the 'aris a third, &c.' is a statement by R. Manyomi b. Nehomi.² That he also shared with the landlord the prunings, and the wood from old vines and trees, is another statement made by the same authority.³

¹ Ibid. 109a.

² Ibid. 109b.

³ Ibid. קופא דבנא old vines (קופא Pers. = vine or from ceppa = vine), Kohut.

WORKMEN AND SLAVES

THE fact has already been stated that the majority of owners probably cultivated the land themselves. Many of these would need help, no doubt, during the sowing, reaping, and fruit-gathering seasons, also for watering the fields; and labourers were therefore employed. That the employment of hired labourers was almost if not quite as common as letting out to tenant farmers, follows from the following: 'If the 'aris disputes with the owner as to what was the original arrangement concerning which percentage of the produce the 'aris had agreed to accept; the 'aris maintaining he was to receive half, while the owner maintains that he was to receive a third, R. Judah holds that the owner is believed. To this Abaye adds that R. Judah will maintain his opinion even in districts where the custom was for the 'aris to receive half, for reason that, as the 'aris has nothing to show that he was employed as 'aris, the owner had the choice of pleading that he had employed him merely as his workman שְׂכִירִי וּלְקִיטִי הוּא, and he would have been believed.¹ It is very likely that the various kinds of tenant farmers also employed labourers to help them. Hired labourers in general, whether engaged in agriculture or in any other kind of industry, fell into the two classes mentioned in the previous chapter: (a) the *kablan*, and (b) the worker.

(a) The word *kablan* (קָבַל = receive, accept) means contractor and in a general sense includes all the tenant farmers already described. Thus in the Mishnah and in the Gemara the words קָבַל and קַבְלָן are used indiscriminately both for the metayer and the tenant farmer.² In a more restricted

¹ B.M. 110a.

² See 'Aruk.

sense it refers to a workman who is a piece-worker, differing from the others only in degree but not in kind.

(b) The worker (Heb.) פועל, also known as שכיר יום (Heb. שכר), daily wage-earner, differed in kind from the *kablan*; for, whereas the latter was practically his own master, the former was subject to the will of another. For this reason the Rabbis considered it derogatory for a man to become a daily wage-earner, whom they regarded as almost belonging to the same category as the Hebrew slave of ancient times.¹ Thus the verse 'For the children of Israel are slaves to me, my slaves',² which was used by R. Johanan b. Zakkai in a homily on the Hebrew slave, was applied by R. Nahman in the same sense to the wage-earner פועל.³ Such was the low esteem in which he was held that it is a question in Jewish law whether a husband can be compelled to hire himself out as a wage-earner, even if he has no other visible means of earning a livelihood.⁴ For this reason, the worker was given the privilege by Rab of withdrawing from an engagement, even in the middle of the day, and not only was he not penalized, but could demand payment for the amount of the work done by him,⁵ unless as R. Nathan b. Isaac pointed out, his withdrawal caused a loss to his employer, in which case the amount of that loss was deducted from the workman's wages.⁶ From what has just been adduced it seems clear that, according to Rab, workmen were given the right of withdrawal before the completion of the contracted time, and this privilege was accorded them, no doubt, because of the great disadvantage under which they worked in those days, as there were no trade unions, possessing the power of collective bargaining as is the case at the present time.

¹ Hebrew slaves as such did not exist after the destruction of the first Temple. Gitt. 65a; 'Arakin 29a.

² Levit. xxv. 55.

³ B.K. 116b; B.M. 10a. See Kidd. 22b.

⁴ See 'Eben Ha'ezar, lxx. 3.

⁵ B.M. 10a, 77a and b; B.K. 116b.

⁶ Ibid. 77b; see *ibid.* 76b.

I therefore entirely disagree with Kraus, who asserts that it is not clear from the Gemara whether workmen were given the privilege of withdrawal (ii. 103). On the other hand, Rab admitted that if a *kablan* withdrew before having completed his work he should be penalized.¹

In spite of the Rabbis' disapproval, economic conditions brought a great number of people into the labour market as wage-earners. The majority of these were mere labourers, but there were also many who possessed a little land of their own, which was not of sufficient extent to occupy their full time, and who therefore hired themselves out to work for others as a means of supplementing their incomes.² There were places in which the price of labour was fixed, as may be inferred from the anonymous question in the Gemara, 'Let us see what is the price of labour in the labour market?' In others the price of labour fluctuated, no doubt, according to the working of the law of supply and demand. This may be inferred from the expression in the Gemara: 'It deals with a place where no fixed rate exists, but some hire themselves out for four, and others for three.'³ It is self-evident that the labourers possessing greater bargaining power could command a higher wage. We therefore find that the workmen who hired themselves out merely for the purpose of supplementing their incomes usually commanded a higher wage than those whose existence depended upon obtaining work. This is anonymously expressed in the Gemara, 'Had you not given us to understand that the wage was four, we would never have begun the work, as it would have been beneath our dignity to give our services for less than that amount'.⁴ There were also workmen who merely received their food as wages. This is indicated by the remark of

¹ B.M. 77b 'ורב סבר לה כותיה בחדא וכו'.

² Ibid. 76a הכא בבעל הבית עסקינן, see Rashi on this.

³ Ibid. 'ולחזו וכו'.

⁴ Ibid. 'אי לאו דאמרתא לן וכו'.

R. Kahana to R. Ashi: 'Perhaps this refers to a case where they worked merely for their food.'¹

There does not seem to have been a uniform set of labour laws for the whole country, but each town and district had its own laws and customs. This may be inferred from the anonymous question in the Gemara mentioned in the course of a discussion on the length of the working day, 'Let us see what is the custom in the district?' In new towns where the population consisted of settlers from different districts, and where no custom had as yet been established, the worker would leave his house after sunrise and remain at his work in the fields until sunset, in accordance with the ancient custom mentioned by the psalmist.² There is also a statement of Rab cited by R. Judah to the effect that as the morning and evening were the usual times for farm labourers to set out to, and return from work, it was usual to proclaim the sale of land at those times, so that intending purchasers could then arrange with the labourers to survey the fields for them and form an estimate of their value.³ From an expression of R. Nahman, in answer to a remark of Raba, with reference to the question as to the amount by which a workman may be penalized for causing loss to his employer by his breach of contract, it appears that tools were usually provided by the workmen themselves, and when the employer had obtained possession of the workman's tools and garments he could claim a higher compensation than would otherwise have been the case.⁴

Agricultural labourers were employed in digging channels for irrigating the fields, drawing water for watering the fields,

¹ Ibid. 92a.

² Ibid. 83b דאגירתא לי, בנקוטאי, בעיר חדשה, ולחוי היכו נהני כפועל דאורייתא, see Kraus, ii. 103, note 715, and 161, note 100.

³ 'Arakin 21b.

⁴ B.M. 78a שבאתא חבילה בירו, see Rashi and 'Aruk, Kohut, 3.

doing any of the work connected with the cultivation of the various products of the soil, such as grain, vines, dates, sesame, figs, &c., also in acting as watchmen for the vineyards, orchards, barns, and sheaves lying in the fields. Thus Raba expressed his opinion that if workmen were engaged to dig channels, and, before they could start work, rain fell, rendering their work unnecessary, they had no claim against the employer if the latter had visited the field on the previous evening and could detect no signs of the coming rain. A similar teaching of Raba was, that if men were engaged to water a field and, before they could commence work, rain descended, the loss was theirs; if, however, the river or canal happened to overflow, and filled the small channels, with the result that the field was watered, it was the employer's loss, as he was supposed to have known the nature of the canal and should have made provision for such occurrences in the contract. Again, if a man hires workmen to water his field, and the canal becomes stopped up during the day, making it impossible for them to carry out the contract, the ruling is as follows: (1) if it was not usual for such a thing to happen, the loss was that of the labourers; (2) if it was a matter of common occurrence and the workmen were strangers to the district and were therefore not expected to know the nature of the canal, the loss was that of the employer; (3) if they belonged to the district the workmen were the sufferers.¹ We also read of R. Naḥman employing men to dig in his field (קפולא from קפל transposition of קלה to scrape, Syr. קפל) who, in the course of their digging discovered the grave of R. Aḥi b. Yashayah. This was probably in Nehardea, where R. Naḥman lived, and where R. Aḥi taught during his lifetime, in the second and third centuries.² There is also

¹ B.M. 76b, 77a. See Rashi and Kohut רפק, סר and דל.

² Shabb. 152b. The reading in the Gemara is R. Naḥman; see Halevy, iii. 182; Yawitz, vii. 31. 'Aruk reads R. Naḥman b. Isaac.

a dispute between Rab and Samuel as to whether watchmen of wine-cellar and of sheaves should be placed in the same category as those of vineyards and orchards, for the purpose of being allowed to partake of the articles they were guarding.¹ R. Huna, we learn, was a fruit-picker in his younger and less prosperous days.² R. Zabid (4th cent.) employed labourers, one of whom stole from him a kab of barley and the other a cluster of dates.³ The other industries in which workmen were employed will be dealt with in another work.

Slaves. While dealing with workmen, it would not be out of place to say a few words on slaves and slavery as they existed among the Jews in Babylonia, since the practice of slavery has, at all times, had a detrimental effect upon the conditions of the workmen. Although slavery in the Orient generally, and among Jews in particular, never existed to anything like the extent it attained in Rome, slaves were nevertheless owned by a large number of Jews in Babylonia, as will be subsequently shown; the wealthy Jews in particular possessed large numbers of both men and women slaves.

Among the Jews in Babylonia slaves were acquired chiefly by means of purchase. Thus we read of R. Judah regulating the formula to be employed in a bill of sale for slaves.⁴ Again, there is an anonymous statement in the Gemara that a blemish detected in a slave does not affect the validity of the purchase; for, if it was a visible defect the buyer must have been aware of it before the purchase, and if the defect was internal, it made little difference to the purchaser, as a slave is only required for work.⁵ There is an amusing story of an old man who blackened the hair of his head and beard and came before Raba begging to be bought for a slave. The

¹ B.M. 93a; Kraus, ii. 106.

² Jer. Sanhed. i. 2; Kraus, ii. 105.

³ Sanhed. 26b.

⁴ Gitt. 86a 'עבדא דנן מוצרק וכו', Kraus ii. 87, note 599.

⁵ Ketub. 57b; Kidd. 11a. See Kraus, ii. 89, note 603.

latter, however, refused, saying that he would rather follow the advice of the Rabbis of the Mishnah¹ and employ the poor to do the work for him. The man then went with the same request to R. Papa b. Samuel, who bought him. On requesting his newly bought slave to bring him some water, the latter, washing off the dye from his hair, said to his master, 'Behold, I am older than you.'² As may be gathered from an expression of R. Hiyya b. Abin (3rd and 4th cent.), slaves for sale were usually placed in side turnings סמיטא (semita = recess or alley) leading from the market-place.³

Inheritance was also a means whereby slaves were acquired. Thus Raba b. Hinana and his brother R. Dimi (4th cent.) inherited two women slaves from their father, one of whom was a skilful baker and cook and the other a skilful spinner and weaver. They subsequently sought the advice of Raba as to how they should divide this inheritance between them.⁴ There is also the case of R. Judah, the Hindoo proselyte, who died without leaving any heirs, whereupon Mar Zutra (4th and 5th cent.), who had been on a visit to him just before his death, acquired possession of his slave.⁵ Cases are mentioned of brides bringing women slaves with them as part of their dowry. An example of this is the case that came before Raba of a bride who had brought as a dowry two women slaves; the husband subsequently married again and, taking one of the slaves, presented her to the second wife, against which proceeding the aggrieved first wife protested vigorously and energetically.⁶

From many expressions in the Gemara it is clear that slaves were looked upon as the lowest class of human beings, possessing every spiritual and moral defect. There is an anonymous saying current in the Gemara that a slave prefers

¹ Abot, i. 5.

² B.M. 60b; Kraus, ii. 86, note 591.

³ B.M. 100a דקיימא בסמיטא, see Rashi, Kohut, and Jastrow; Kraus, ii. 87.

⁴ B.B. 13b.

⁵ Kidd. 22b.

⁶ Ketub. 80b.

the licence of slavery to the responsibility of freedom.¹ R. Joseph b. Hama was wont to seize the slaves of his debtors and make them work for him. Raba, his son, pointed out to his father that by this means he was seemingly taking interest for his debts, to which R. Joseph replied that there was a well-known saying of R. Nahman, 'A slave is not worth the bread he eats'. Raba, however, answered that this statement could not be applied generally, and only referred to slaves of the type of R. Nahman's Daro, who was always to be found dancing in the wine shops. R. Joseph justified his action by saying that he had relied on a statement of Rab, cited by R. Daniel b. R. Katina, that a master is pleased if his slave is made to work so that he may not become spoilt through inactivity.² Because of their dissoluteness, slaves were rather lax in the observance of the Jewish dietary and festival laws while engaged in preparing the food for their masters. The Exilarch once reproached R. Sheshet (3rd cent.) for not partaking of food at his house, and the latter replied that he had found the slaves of his household to be unreliable in the observance of the dietary laws.³ Again, R. Papi (4th cent.) once visited Mar Samuel on a festival day, and when food was set before him he refused to eat it, because he feared lest the dissolute slaves had violated the festival laws while preparing the food.⁴ For this reason Raba maintained that certain things, though permissible in themselves under certain prescribed conditions, should not be practised in houses where many slaves were employed, as slaves are not to be trusted to carry out the rigid requirements of the law.⁵

The instances we have just adduced seem to indicate that

¹ Ibid. 11a; Gitt. 13a עבדא בהפקירא ניהא ליה.

² B.K. 97a; B.M. 64b; Kraus, ii. 91.

⁴ Bezaḥ 14b פריצותא דעבדי.

⁵ Pesah. 40b בדוכתא דשכיחי עבדי.

³ Gitt. 67b.

slaves were chiefly employed in domestic service. This may also be inferred from the expression of Samuel: 'The slave who prepares it **ביצה מורמיטא** is worth a thousand dinarius (dinars), for he must boil the egg till it is reduced to the size of a pill.'¹ Slaves were also occasionally employed in other work. Thus Abaye speaks of a valuable slave who was expert in perforating pearls, and of another who was a tailor.² The reason why slaves were employed generally for household duties appears to me to be because household work was considered too abject in its nature to appeal even to the poorest Jew. Even the Hebrew slave of ancient times could not be compelled by his master to perform such abject duties.³ Neither could women be employed by others than their husbands for household work, or for any other kind of work; for it was an accepted ruling of Samuel that Jewish women could not act as employees to strangers.⁴ The Jews of Babylonia held that the ideal of womanhood is expressed by the words of the Psalmist (xlv. 13): 'The king's daughter within the palace is all glorious.'⁵ Women were therefore found occupied in business, and held places of trust, such as treasurers **אשה נזברית** (Pers. = treasurer), but were not found as employees.⁶ There was therefore no alternative but to employ both men and women slaves for the various kinds of household duties.

As Jews were forbidden by the Torah to ill-treat their slaves, it is only natural to assume that they were popular as masters. The case of the slave who refused to obey his

¹ Nedar. 50b; Kraus ii. 88.

² Ketub. 40a and b **עבד נוקב מרגליות**, עבד מעשה מחט, עושה מעשה מחט.

³ Sifra Ber. vii. 2; cf. Kraus, ii. 101.

⁴ Kidd. 70a and b **אין משתמשין באשה כלל**.

⁵ Yebam. 77a, Shebu'ot 30a.

⁶ Shabb. 62a **אשה נזברית** and expression of R. Jeremiah. He must have still been in Babylonia, as Rabbah is mentioned discussing the subject with him. See Pesah. 50b: 'If she produces and sells.' Funk, i. 24.

master R. Papa b. Samuel (above, p. 68) serves as a good illustration of the leniency with which they were treated, at least among the learned classes of Jews. Not only were they not ill-treated, but there are many instances in the Gemara of the fine consideration shown by the Rabbis for the feelings of their slaves. Samuel once performed an experimental physiological examination on one of his women slaves, and paid her compensation for any indignity he may have caused her to suffer; remarking, that she was his slave to work for him, but not to be put to shame.¹

The chief slave-owner among the Babylonian Jews was most probably the Exilarch. This may be inferred from many expressions in the Gemara. One of these (mentioned above, p. 69) was, that because of his numerous slaves, certain ritual practices were forbidden in his household which otherwise would have been permissible. He employed slaves not only for his household but also for his police force. Thus we read that Rab, at a certain period in his career, was appointed market inspector by the Exilarch, and was arrested by the Exilarch's men because he did not act according to the instructions given him by the latter.² Again, Eliezer Ze'era was once wearing black boots while standing in the streets of Nehardea. When questioned by the Exilarch's men as to the reason for his attire, he replied that he was mourning for Jerusalem. 'Are you worthy to mourn in public for Jerusalem?' they said to him. Thinking that he was masquerading as a man of learning, they arrested him and held him under restraint till he was able to prove that he really was a scholar.³ Because of their power, the Exilarch's slaves became arrogant and overbearing, and, as mentioned above, not over-scrupulous in the observance of Jewish law. For this they

¹ Niddah 47a. See also there how they were treated by R. Sheshet and R. Nahman. Kraus, ii. 93.

² B.B. 89a; Jer. B.B. v. 5.

³ B.K. 59b.

were greatly distrusted and frequently rebuked by the Rabbis. Thus we read of R. Ze'era (4th cent.) advising R. Simon to rebuke the household slaves of the Exilarch even though he felt convinced that his words would have little effect.¹ Out of revenge they would attempt to inconvenience the Rabbis who frequented the palace of the Exilarch. Once they attempted to bring about the death of R. Sheshet, who greatly mistrusted them, and it was only through a timely warning by R. Hisda that he was saved from death. R. Amram (3rd and 4th cent.) once nearly fell a victim to their plots, but the timely aid of Yalta, the wife of R. Nahman, saved his life.² The death of R. Hiyya of Parawa was actually caused by their machinations.³

Besides the Exilarch, there were others who possessed many slaves, and we read of a town peopled entirely by slaves that was sold to heathens by its Jewish owners. This happened in the days of Rabina (4th and 5th cent.).⁴ In addition to the Rabbis already mentioned as possessing slaves, we may add R. Nahman, R. Sheshet, R. Hisda, and R. Ashi.⁵ The courts of Nehardea and Pumbadita are mentioned as having given power to creditors to seize their debtor's slaves in payment of their debts.⁶ As a sign of servitude, slaves usually wore on their clothes or necks the seal of their masters, which were usually made of metal or clay.⁷

According to the Mishnah, a Jew might not sell his slave to a heathen, because the slave of a Jew had to conform, to a very large extent,⁸ with Jewish law, and when manumitted he automatically became a proselyte, enjoying the full legal status of a Jew; by selling him to a heathen, the master

¹ Shabb. 55a. ² Gitt. 67b, 68a. ³ 'Ab. Zarah 38b. ⁴ Gitt. 40a.

⁵ See Gitt. 38-43—many instances; also 45a; Berak. 13b; Pesah. 116a, Yebam 46a; Niddah 47a. ⁶ B.K. 12a.

⁷ Shabb. 58a; cf. Gitt. 43b נשך. Kraus, ii. 89, notes 605, 608.

⁸ Hagigah 4a.

would be virtually compelling the slave to break away from Judaism. A slave sold in contravention of this law became manumitted automatically.¹ This law was also enforced in Babylonia. We find a saying of Rab to the effect that if a man allowed his slave to be taken for service by the פרהנג (Pers. = magistrate), when he could have prevented it by means of money payments, that slave became manumitted automatically; for, not having redeemed him, it was just as if he had actually sold his slave to the magistrate.² Again, we read of a town of slaves which was sold by its Jewish owners to heathens (above, p. 72), and the question is raised in the Gemara, whether it was necessary for the slaves to receive a written manumission from their former masters, before they could be legally recognized as Jews.³ In Babylonia, slaves did not compete in the labour market with the workmen, as was the case in ancient Rome, for, as already explained, they were employed chiefly for household duties.

¹ Gitt. 43b, 44a.

² Ibid. See Rashi, 'Aruk Kohut פרהנג and Jastrow.

³ Gitt. 40a.

V

METHODS OF LAND CULTIVATION

THE methods of land cultivation in use among the Babylonian Jews will now be described as far as they can be gathered from the Talmud. It is obvious that these methods must have differed somewhat from those of Palestine, owing to the different climatic conditions and the different nature of the soil. It must be remembered that the soil of Babylonia was of an unusually soft character and contained no stones, in contrast to Palestine, which, being a mountainous country, had a hard and stony soil. The climate, too, was hotter in low-lying Babylonia than in mountainous Palestine, and not the least thing that distinguished the two countries was the fact that Babylonia possessed a much greater water-supply and did not depend so much on rain as Palestine did.

Because of the softer soil, there was no necessity for the use of such large and heavy implements in Babylonia as in Palestine. 'The teaching of the Mishnah, that trees must not be planted within four cubits of a neighbour's field, in order to allow sufficient room for working round the trees with a plough, without encroaching on the field, does not hold in Babylonia', said Samuel, 'But the space of two cubits is sufficient, as the plough in use was smaller';¹ nor was there any need of ploughing the ground after sowing in order to cover the seed, although this was usually done in Palestine. 'The Tanna of the Mishnah (who mentions ploughing after sowing) deals with Palestine, where they plough after sowing', is an anonymous statement in the Gemara.²

The Mishnah teaches that partners in possession of a field cannot compel each other to divide it unless its size is such

¹ B.B. 26a; see Rashi.

² Shabb. 73; Kraus, ii. 174, note 169.

that after the division the share received by each will allow for the sowing of nine kab of wheat. 'What will be the case in Babylonia?' is an anonymous question in the Gemara. To this R. Joseph replied: 'There must be sufficient ground for each share to occupy a person a whole day in the ploughing of it.' The question is at once raised, 'At which season of the year? Does it mean a day's ploughing during sowing season, in which case it will correspond to more than a day, but not quite to two days, during ploughing season; or does it mean a day's ploughing during ploughing season, which corresponds to less than a day during sowing season?' To this the answer is given that R. Joseph may either refer to a day's ploughing in the sowing season, which will take two days in the ploughing season, regard being had to districts where the field is ploughed twice at that season; or he may deal with a day's work in the ploughing season, which will take just as long during the sowing season, that is, in districts where the soil is uneven and is difficult to plough at all times. Another reading of Rashi, with which the explanation of the 'Aruk partly agrees, is the following: 'R. Joseph may either deal with a day's work during ploughing season, which will occupy a whole day in the sowing season, that is, in districts where the ground is ploughed twice, once before and once after sowing; or he may deal with a day's work at the sowing season, which will occupy two days during ploughing season, in a district where the ground is uneven.'¹ From this discussion the fact clearly emerges that there existed districts in Babylonia where the ground was ploughed twice during ploughing season, and others where it was only ploughed once; and also that there were districts where a second ploughing took place after the sowing, for the purpose of covering the seed. The statement adduced previously, that in this respect Babylonia differed from Palestine, cannot

¹ B.B. 12a; see 'Aruk 77 9; cf. Kraus, *ibid.*

therefore refer to the whole of Babylonia, but only to some, probably to most parts of the country.

The animals most commonly used for drawing the plough were the ox and the cow, as may be inferred from the following discussion in the Gemara. 'If one buys an ox and it is found to be vicious, Rab is of the opinion that the buyer may return the animal, as most people buy these animals for ploughing. Samuel, however, maintains that the vendor can plead that he sold the animal to be slaughtered.' Of course, the buyer of the case in question was one who was known to be a dealer in both kinds of animals, and also the value of animals for slaughter happened to have risen to that of animals for ploughing.¹ Two men were usually occupied in ploughing, one to drive the animal by means of a goad, while the other walked behind holding the plough. This may be gathered from the question raised in the Gemara, when a cow and a ploughshare are hired, and the plough is broken during work, as to which of the two men is responsible for the damage. R. Papa maintained that responsibility rests with him who holds the goad פֶּרֶשָׁה (Syr. = goad), while R. Shishi b. R. Idi is of the opinion that it lies with the one holding the plough מִנָּה (Syr. מִנָּא = vessel, used also for ploughshare).²

The necessity of leaving, in Babylonia, two cubits between one's trees and a neighbour's field, in order to prevent the plough entering that field,³ shows that the plough was also used for loosening the soil round the trees in orchards; for this work, however, the spade was more commonly used, as may be seen from the expression מִרְפָּק פֶּרְדִּיסָא, 'borrowing a spade to dig an orchard'.⁴ The loosening of the soil between vines seems to have been done chiefly by hand, with spade and hoe. R. Joseph possessed a vineyard which he

¹ B.K. 46a and b.

² B.M. 80a; see Rashi, 'מִן פֶּרֶשָׁה אֲרוּק 7.

³ B.B. 26a; see above, p. 74.

⁴ B.M. 103a, words of Raba.

worked intensively, by digging it more than was usual, and he was rewarded by grapes that produced a very strong wine.¹ Again, the question is raised in the Gemara בבבלי מ"א: 'What must be the size of a vineyard in Babylonia so that one partner may compel the other to have it divided between them?' To this Raba b. Kasna replied: 'each share must contain at least three rows אצירתא (Pers. = orderly row), each containing twelve vines, this being as much as a man can dig in a day.'² It was, however, not uncommon to plough between the vines with oxen, as is implied by the anonymous expression often used in the Gemara בתורי דנפיש פסדיהו, 'working with oxen in the vineyards for ploughing, and during vintage, when much damage may be done to the vines, and injury to the oxen, if great care be not taken'.³ Trenches, in which water might collect, were usually dug round the vines. The Mishnah teaches that עניות (cavities from ענה = a circle) may not be dug round the vines during a festival week. 'What are meant by עניות?' is the inquiry. R. Judah explains this by the word בנכי (Pers. = cavities). The question is again asked, 'Did not R. Judah himself allow the people of Zitai to dig בנכי during a festival week?' The answer was, 'No, he only allowed old trenches to be renewed, but not new ones to be dug.'⁴

The usual distance between one vine and the next was four cubits, but sometimes it would be more. A vineyard would for legal and ritual purposes be regarded as such, even if the distance between the vines were as much as sixteen cubits. Thus the question is raised, 'What should be the distance between the vines, so that the ground between be included in the sale of the vines?' Samuel, cited by R. Joseph

¹ Menahot 87a; see Kraus, ii. 175, note 175.

² B.B. 12a.

³ B.M. 30a. See Rashi both for ploughing and during vintage; also *ibid.* 73a and Hull. 84b. See 'Aruk פרדס, the oxen were used for carrying the fruit, Kraus, ii. 206.

⁴ M. Katan 4b; see Kraus, *ibid.*

in the name of R. Judah, gives it as between four and eight cubits. Samuel, again, cited by Raba in the name of R. Naḥman, gives it as between eight and sixteen cubits. R. Joseph supports his contention by citing the case of a man who bought three vines in a shepherds' village, and R. Judah ruled that the buyer should receive the ground between them, although the distance was only four cubits. Raba, however, ruled that a distance of from four to sixteen cubits entitles the purchaser to the ground between.¹ It was also quite usual to sow cereals between the vines. Thus R. Ḥanan and R. 'Anan (3rd cent.) while on a journey observed a man sowing wheat and barley between the vines (above, p. 41).²

As previously mentioned, the soil of Babylonia was soft, rich, and fertile, and there was less fear of it becoming exhausted than in Palestine; the tenant farmers were, therefore, given greater freedom to change the crops according to their desires than they were allowed in the latter country. The exceptional fertility of the soil would also, no doubt, account for the fact that it was quite common to find a farmer cultivating the same kind of grain in the same field for three years in succession רצופות.³ The majority of cultivators, however, adopted various methods for preventing the land from becoming exhausted. A common method was to sow in alternate years, the field being merely ploughed in the fallow years. 'R. Huna admits', says the Gemara, 'that in districts where it was customary to allow the field to lie fallow in alternate years, במוברי באני (בור = empty, uncultivated), the fallow years did not invalidate the three years of undisturbed possession', required for proving the possessor's title to the field. Further, even in districts where some farmers were wont to leave fallow years, and others did not, the fallow years did not invalidate the plea of undisturbed

¹ B.B. 82b, 83a; see Kraus, ii. 230.

² Kidd. 39a; see Kraus, ii. 228.

³ B.B. 29a.

possession.¹ From all this it is clear that the system of allowing fallow years was not confined to particular districts; but fields adjoining each other in the same valley would often differ in their method of treatment. A system of rotation of crops was another method adopted by many farmers. Thus Rabbah, cited by Abaye, stated: 'He who would avoid leaving his field fallow in alternate years should sow wheat one year, and barley the next; one year the field should be sown from north to south and the next year from east to west.'²

The harvest season commenced generally in the month of Nisan; Raba, however, allowed his tenant farmers to wait another month before reaping. The Rabbis complained to Raba that it appeared to them that he was taking interest from his tenants, as the landlords who harvested earlier received as rent four measures, whilst he, for waiting another month, received six measures. Raba, however, retorted that it was not he, but the other landlords, who were dealing unfairly with their tenants; for by compelling them to harvest earlier they caused their tenants to lose a much larger proportion of the produce than the extra rental the tenants had to pay him for allowing them an extra month.³ This instance clearly indicates that the early harvesting was done by the landlords of their own free will, and for their own advantage; I must therefore entirely disagree with Funk (ii. 45, note 2), who assigns, as the reason for their action, the unlawfulness of the times and the fear of being robbed of their crops. It is highly probable that the haste of those landlords was due to their desire to place their produce on the market early in the season, when prices were still high, and they did not consider that by doing so they caused a loss to their tenants.

¹ Ibid.; see Rashbam, 'Aruk, Kraus, ii. 181.

² B.M. 107a. See Tosafot on 'N7, not as Rashi. See Kraus, ii. 182.

³ B.M. 73a; Kraus, ii. 186.

It is only natural to assume that there were others besides Raba who harvested late in the season.

The method of harvesting lentils differed from that of wheat or barley in this respect—that while the latter was reaped, the former were usually uprooted. 'For this reason one must expect to find more sandy matter in lentil, than in other cereals' runs an anonymous explanation in the Gemara on a Baraita. That this law existed in Babylonia is clearly seen from the ruling of Rab, given by Rabbah b. Hiyya of Katospah, that if one removes dust or pebbles from another's wheat he must pay to the owner the value of their weight in wheat. R. Huna also ruled that if the vendor agreed to clean the grain, at the request of the purchaser, then it must be completely cleaned and no foreign element at all might be left.¹ Flax and sesame were also sometimes harvested in the same manner as lentils. Thus we read of R. Judah allowing people to uproot flax and sesame and cut cuscuta during a festival week.²

After harvest, the corn was tied into bundles or sheaves **כִּיפֵי** (**כֶּפֶה**, **כֶּף** Pers. = unthreshed corn), and these were left on the field to dry. The sheaves were frequently turned to make them thoroughly dry. Raba is mentioned as speaking to the men engaged in this work, and advising them how to perform it when the grain was required for Passover use.³ To prevent the sheaves from being blown away by the wind large stones were placed on them **אֲכֵנֵי דְאֲכַפֵּי** (**כֶּפֶה** = sheaves).⁴ The ingathering of grain usually took place at the beginning of Marcheshvan; in Palestine, however, it was in Tishri. Because of this, it was usual, in Palestine, to offer up the additional prayer for rain at the termination of the Tabernacle festival in Tishri; in Babylonia, because the grain had

¹ B.B. 93b, 94a; Kraus, *ibid.*, note 247.

² M. Katan 12b; Kraus, *ibid.*

³ Pesah. 40a.

⁴ B.B. 69a **תְּרִיטוֹ הֵבֵא**. See Kohut on **כֶּף**.

not as yet been gathered in, the saying of the prayer did not begin till the seventh Marcheshvan.¹

From the popular saying, cited by R. Joseph תורא מדישה 'The ox may eat of the corn he is threshing',² it may be inferred that this animal was generally used for threshing. Abaye mentions a special threshing sledge עזא דקורקסא (Gr. = hook, goat with hook = threshing sledge of that shape) which was drawn by animals over the corn. It is highly probable that this sledge was similar to those seen in use, by Layard, in his travels through Persia.³ 'What are the things usually found in a barn? A threshing sledge and ploughing implements' is an anonymous expression in the Gemara,⁴ which is a clear indication that threshing sledges were in common use in Babylonia. After threshing, the grain was winnowed מירדא (רר Syr. and Arab. = winnowing). In some cases they relied on the wind בירי שמים, but in most the winnowing was effected by means of a fan נפוחת.⁵ After that the grain was placed in barns and storehouses אכלבאי (אכלבא Pers. = grain shed).⁶

There are many indications in the Talmud that the Jews in Babylonia were skilled in the culture of trees and vines. R. Judah gives a prescription which was used for the fertilization of date-palms. After being prepared it was poured through a hole into the heart of the tree. Raba mentions that it was usual to scatter the pollen of the male flower over the female palm-tree.⁷ To prevent trees that bore too freely

¹ Ta'anit 4b להו לן ויהא לן; Kraus, ii. 187. ² Gitt. 62a; Hull. 6b.

³ 'Ab. Zarah 24b; Zebahim 116b. See Kohut מרבב; Layard, *Persia, Susiana and Babylonia*, 106, *Nineveh and Babylonia*, 18. ⁴ B.K. 61b.

⁵ B.M. 74a; cf. M. Katan 16b מניפה חושלא.

⁶ Gitt. 56a; B.M. 63b, 72b. See Kohut.

⁷ Pesah, 56a נוקבא עם דיכרא (Arab. = a spike covered with numerous flowers and enveloped by one or more sheathing bracts called spathes), Kohut and Jastrow. For the process of fertilizing see Kohut נפר 2, Jastrow; Low ii. 334-5; also Kraus, ii. 209, note 438.

from dropping their fruit, the method, mentioned in a Baraita, of heaping up stones around them, whereby their fertility was reduced, was also known to Abaye and Raba, in Babylonia. In the days of Rabina it was customary to hang a cluster of dates on palms that dropped their fruit as a sign for passers by to offer up prayer for the restoration of their normal fertility. Previous to his age such trees were painted red **סיקרא** (**סקר** Arab. Syr. and Pers. = red paint).¹ The statement of Abaye with reference to cutting a sycamore-tree in such a way that its future growth should not be impaired clearly indicates that he was well acquainted with the nature of trees.²

Irrigation. The very life of Babylonia, both from the commercial and from the agricultural point of view, depended chiefly on the elaborate system of canals that existed in the country, both for navigation and irrigation purposes. As far as can be gathered from the Talmud, the irrigation system worked in the following manner. From the rivers, springs, and navigation canals **נהרא** smaller canals were dug **אנינרא** (**נר** Heb. = canal), each one across a whole valley. The fields lying alongside or near these had small channels **אמא דמיא** (**אמא** Syr. = water channel), dug from this canal, running across them. Some owners were fortunate in having their fields between the **נהרא** navigation canal and the **אנינרא** irrigation canal, others had two **אנינרא** alongside their fields, while many had only one.³ The owners of the fields were compelled to leave uncultivated a width of four cubits on both sides of the canal to serve as banks. Speaking to R. Adda, the surveyor, R. Judah said: 'Be not too particular while measuring the four cubits for the banks of the **אנינרא** irrigation canals, as these banks are the property of the owners of the field.' They were left uncultivated solely for the pur-

¹ Shabb. 67a; Hull. 78a. See Kohut, Kraus, ii. 212, notes, 452, 454.

² B.B. 80b; cf. Kraus, ii. 211.

³ B.B. 12b, 13a; see Gemara and Rashi there. Kraus, ii. 166.

pose of strengthening the bank: 'With the four cubits of **אנהרא** navigation canals you must take particular care in measuring accurately, as the banks belong to the public.' R. Ami (3rd cent.), the Babylonian who subsequently emigrated to Palestine, proclaimed that both banks of the Nehara must be left sufficiently clear to enable the towers **מלא כתפי נגרי** to walk along freely while hauling the barges. R. Nathan b. Hoshi'ya (3rd cent.) caused the banks of the Nehara to be cleared, near the town of Mashronia, to a depth of sixteen cubits; to such high-handed action the townspeople showed their resentment in a most forcible manner.¹

The private watercourses **אמה** that ran through the fields were, according to one reading in the Gemara, one cubit wide with a bank of a cubit on each side; according to the reading of Tosafot and Rashbam, their width was two cubits, and depth one cubit. This is clearly stated in the teaching of Samuel, cited by R. Judah: 'If one sells to another a water channel **אמה** he must allow two cubits for the channel, and a cubit on each side for the banks. 'These banks', he goes on to say, 'may be cultivated by the owners of the fields', and they were called banks only in the sense that the selling of such a channel gave the buyer a right to use the banks for the preservation of the water channel.² These water channels did not have direct contact with the canal in all cases; but in many they stopped just short of the bank of the main channel. The water was then drawn by buckets from the main channel, and poured into the watercourses whenever the field needed watering. Thus R. Papa ruled that one may not wash his hands before partaking of food in the **אמת הארים** (Targum on **אריהא** = **ארים**, also Pers. = **אמת**

¹ B.M. 107b; see Rashi. Kraus, *ibid.*

² B.B. 99b; see Gemara, Rashbam, and Tosafot **ואמה**, where the distinction is drawn between **אמה** and **אניגרא**. See Kraus, ii. 165, note 126; cf. M. Katan 4a, when the field is watered by **אמת המים**.

מים (אורחא 'Aruk) watercourses that are filled by buckets, as the water already in the channel flows of its own accord, which does not satisfy the ritual requirements; but if the hands are placed close to where the drawers pour the water into the channel, it is allowed, as the water is there impelled directly by the power of man מכה נכרא.¹ We also read of workers being hired לרוולא to fill these channels from the large canal, and the question is raised as to who has to bear the loss if the Nehara happens to become stopped up.² Layard, in his *Nineveh and Babylonia* (119-20), mentions having seen special contrivances for drawing water in buckets from the river to fill the irrigation channels. It is not improbable that these and similar contrivances were in use in Babylonia during the Talmudic period. That they possessed certain wheel contrivances to which were attached buckets to raise water from wells is clearly stated in the Gemara. Amemar (5th cent.) allowed water to be drawn on a Sabbath in Meḥuza, by means of a נילנלא wheel contrivance to which were attached buckets (R. Tam in Tosafot, R. Asher, and Kohut אנטל), and he was not afraid that they would use the water for watering their gardens, as gardens did not exist in Meḥuza.³ This ruling indicates that the wheel contrivances were commonly used for watering gardens. Ibn Serapion, in his description of Babylonia, which was written about the year 900 C.E., mentions the water-wheel (Arab. Dāliya) and the lever (Shaduf), which were used for irrigating the lands through which the canals flowed.⁴

The main channel did not always contain a sufficient supply of water to enable all the private channels connected with it to be filled at the same time. When the upper fields

¹ Hull. 107a; cf. B.B. 12a דולא Rashi = pit for watering field, but R. Gershon in 'Aruk = אריתא דרלא.

² B.M. 77a; see Kraus, ii. 166, note 127. See previous note.

³ 'Erub. 104b.

⁴ Ibn Serapion, *J.R.A.S.*, 1895, p. 69.

needed watering, the main channel would be stopped by a dam just below the fields, till the full requirements of the fields had been drawn, and then a dam would be made a little lower in its course to enable the lower fields to be watered, and so on, until all the fields of the valley had received their share. Under such conditions it was only natural that each owner should desire to have his field watered first, for fear of the water of the main channel failing. The question is raised in the Gemara as to whether the upper or lower fields have prior right of filling their private channels. Rab gives priority to the lower ones and Samuel to the upper ones. 'Of course', says the Gemara, 'the difference of opinion is only in cases where there is not a sufficient supply for all to draw at the same time, and the channel has to be dammed to enable each to water his field' *במיסכר ואשקוי* (סכר = dam).¹ The field of Abaye, we learn, was situated along the bank of a main channel, and R. Shimi b. Ashi, desiring to relieve his teacher from the trouble of watering the field himself, in order that he might find more time to devote to his lectures, undertook to water the fields for him. He then went to the owners of the upper fields, and told them that the lower ones had priority; to the owners of the lower ones he asserted the contrary, and by this device he was able to be the first to water his field. Abaye, to show his disapproval of this action, refused to eat of the produce of the field that year.²

Besides the canals, wells were also sunk in the fields, for watering them (*גרנותא* Pers. = well or channel).³ For the supervision of the watering arrangements a special man *ריש גרנותא* was appointed by all the inhabitants of the valley.⁴

¹ Gitt. 60b; see Kraus, ii. 166, notes 126, 127.

² Gitt. 60b; Halevy, iii. 453.

³ B.M. 103a; see Kohut in name of R. Gershon, also Jastrow.

⁴ B.B. 91b. R. Hanan b. Abba in the name of Rab 'Even the *ריש גרנותא* is a heavenly appointed position'.

The absence of such an official would certainly have led to endless disputes. One such dispute is mentioned in the Gemara as having taken place in the days of R. Hisda. Two men possessed a גרנותא, each taking his turn in watering on alternate days. One of the partners once attempted to water his field on two consecutive days, to which action the other objected, and taking the law into his own hands, he struck his partner with the handle of his hoe.¹ In Nehardea we learn that proselytes were not allowed to be appointed even to the post of גרנותא ריש.²

All the farmers of a valley had to keep a careful and constant watch that the water from the channel was not stolen from them. If the people of the upper reaches dug another channel and drew the water away from the old one, the fields below were left dry and useless; or again, if the people of the lower reaches caused an obstruction, thereby impeding the flow of the water, it inevitably followed that the upper fields were flooded. An illustration of this is found in the Talmud. The people of Harmah, which was situated on the Shanwata Canal, dug a new channel which diverted the water of the canal from its straight course, causing it to flow round their fields; it then turned and fell again into the old channel. This bend in its course retarded the flow of the water to a considerable extent, with the inevitable result that the upper fields were submerged by the overflowing of the canal. The owners appealed to Abaye, who advised them to deepen the bed of the canal, to which they replied that, if they did so, it would cause their small private channels to dry up. As there was no other alternative, he compelled the people of Harmah to close up their new channel.³

For these same reasons it was of urgent necessity for the owners of both upper and lower fields to take care that no obstructions impeded the flow of the water. We therefore

¹ B.K. 27b.

² Kidd. 76b.

³ Gitt. 60b.

find that the canals were continually being dredged and cleared of anything that would cause obstruction. Thus we read that R. Jeremiah (4th cent.) allowed the people of Sakota to dredge למיכרא (כרה = dig) a canal that had been stopped up, during a festival week; also Abaye allowed the people of Handak to clear a canal of weeds לשחופי נהרא (שחף = to scrape) during a festival week, and R. Ashi allowed the people of Mata Meḥasya to clear obstacles from the middle of the canal Borniz during a festival week לאקרוחי נהרא (קרה Syr. = perforate).¹ We also learn that Jews were engaged in this kind of work in comparatively greater numbers than the rest of the population; for we read that though the Nehar Biran flowed through a district in which the majority of the inhabitants were heathens, nevertheless, most of the people employed in damming and dredging it were Jews.² The fields of the upper reaches were in a more favourable position than those of the lower ones, and the fear of being flooded was slight in comparison to the damage suffered from the drying up of the canal owing to stoppage. R. Judah therefore ruled that it was obligatory for the owners of the lower fields to help the owners of the upper ones to dredge לכריא נהרא the upper reaches of the canal, but not vice versa.³

Manuring and Fencing. For the fertilization of the fields, farm-yard manure was chiefly used. Another common method of manuring was to arrange with owners of cattle and sheep to allow their animals to stay in a field for some time till sufficient manure had been deposited. For this purpose, it appears, the cattle of heathen owners were chiefly employed, and as these were suspected of smuggling some of the farmer's animals among their own, Raba ruled that

¹ M. Katan 4b; see Rashi and 'Aruk and Jastrow, Kraus, ii. 346-7.

² B.M. 24b; cf. Reclus, *Un. Geog.* ix. 210.

³ B.M. 108a.

it was forbidden to buy animals from them within the precincts of a town.¹

The fields were protected in the ordinary way by means of fences and walls which were built sometimes of stone, sometimes of wood, and also of staves intertwined with twigs. A good illustration of this is found in the story of Rabina, whose fields surrounded that of Ronya on all four sides. Rabina built a fence round his fields, and asked Ronya to contribute towards the cost; the latter, however, refused. 'At least pay me your share towards the cost of a cheap wooden fence', said Rabina; Ronya still refused. 'Then pay me something for guarding your field', said Rabina; Ronya still refused. One day while Ronya was cutting dates from a palm growing in his field, Rabina instructed his metayer to pick a cluster of those dates. To this action Ronya showed strong resentment. 'Now', said Rabina to him, 'you have shown by your resentment that you desire your property to be protected, pay me at least for the protection I afford you from possible damage by straying goats.' As Ronya still refused to pay anything, Rabina brought the matter before Raba, who advised Ronya to come to terms with Rabina, otherwise he would have to pay a share of the full value of the expensive fence built by the latter.² We have had occasion to mention in a previous chapter which part of the protection of a field had to be provided by the landlord and which by the tenant farmer. 'Gardens are usually fenced', says Raba, 'not so the grain-fields in the valleys'; for this reason, partners of a garden could compel one another to build a fence round it, even when there was no definite custom in the district to do so, but it was otherwise with grain-fields.³ People whose land lay near a wood sometimes left

¹ B.K. 113b דרורי דרורי; see Rashi, 'Aruk דר 1, and Jastrow דור. See Kraus ii. 167, note 136.

² B.B. 4a and b, 5a; Kraus, ii. 184.

³ B.B. 4a; Kraus, ii. 205.

a small part of their fields on the outer side of the fence, where they strewed a little seed; that which grew there satisfied the wild animals and kept them from attempting to spring over the fence. As it was immaterial to the owners whether any one made use of these strips of land, R. Judah maintained that no man could claim that land as his because of having enjoyed three years undisturbed possession of it **מנודא דערודא** (ערוֹד = wild ass).¹

Special men were usually appointed to guard grain-fields in the valleys. These men did not always receive their wage daily or weekly, but were sometimes paid at the end of the season, when they received a slightly increased remuneration because they had waited for their pay. Raba advised the watchmen as to what they should do in order to obviate the extra remuneration being considered interest for waiting.² These men also acted as indicators of the boundaries of the various fields **בר מחייניתא** (Pers. = boundary indicator).³

¹ B.B. 36a; see Rashbam, also 'Aruk and Kohut **רר**. See Kraus, ii. 185.

² B.M. 73a **מנטרי באני**; see Gemara and Rashi.

³ B.B. 68a. See Rashbam, 'Aruk, and Kohut, Kraus, ii. 185.

VI

OBJECTS OF CULTIVATION

THE staple food of the people in Babylonia was bread, made from the flour of corn, especially wheaten flour; there can therefore be no doubt that cereals were the most important articles of cultivation. Among the many references and allusions, both direct and indirect, that are to be found in the Talmud to bread made from these cereals, the few that follow will be sufficient for our purpose. The people of Hozæ were wont to set apart the חלה (dough offering) from the dough of rice flour, which fact is an indication that rice was largely consumed in that place; and R. Ashi is found questioning people as to whether corn or rice bread was the staple article of food in Hozæ.¹ From the manner in which this matter is discussed in the Gemara it is easily seen that, in Babylonia, corn bread was unquestionably the most important article of food. Again, whenever any place suffered from a scarcity of food, there is usually found a statement in connexion with it that relief was brought by ships conveying wheat from other districts. Thus the famine in Pumbadita, in the days of R. Judah, was partially relieved by boats bringing wheat from Parzina.² Again, the famine in Nehardea, in R. Nahman's time, was also ended by the arrival of wheat ships.³

Five distinct species of corn were recognized: wheat חטים, barley שעורים, a species of wheat called כוסמין, known in Babylonia as גולבא, which has been identified with spelt, rye שיפון, called in Babylonia דישרא, and oats שיבולת שועל, in Babylonia תעלא שבילי.⁴ These five kinds of grain formed a class of their own, and a special benediction was assigned for the bread and cakes made from their flour. Thus Rab and

¹ Pesah. 51a; cf. Kraus, i. 100.

² Ta'anit 24b.

³ Ketub. 97a.

⁴ Pesah. 35a; Menahot 70a. See also M. Katan, 13b.

Samuel both agreed that anything made from the flour of these five species, or anything containing among its ingredients flour of these cereals, must have a special benediction assigned to it. 'By this, they mean to exclude rice and millet אורז ורורן from being classed as corn', runs an anonymous saying in the Gemara.¹ Again, only these five species could be used for the making of the Passover cakes.²

The most valuable, and most extensively cultivated, of all the five species was undoubtedly wheat, as will no doubt have been observed from many of the instances adduced in the previous chapters. The bread chiefly in use was made from wheaten flour, but barley bread also seems to have been quite common. This may be gathered from the saying of R. Hīsa that he who finds barley bread agreeable, and nevertheless eats the more expensive wheaten bread, is guilty of waste.³ It is only natural to suppose that the poor could only afford barley bread, whilst the wealthy used the best wheaten flour. 'In the house of R. Hīsa the finest wheaten flour סמירא (Syr. and Arab.) was used even as food for the dogs; whilst in the house of Rabbah there was not even sufficient barley flour for the members of the household' is a well-known saying in the Gemara.⁴ Grain was also commonly used for the making of groats, which were usually eaten in the form of porridge דיסא (Pers. = food of wheat or barley). The porridge was sometimes eaten together with bread. This gave rise, in Palestine, to the ironical remark, 'The foolish Babylonians who eat bread with bread'.⁵ R. Hīsa remarked: 'I once inquired of the fastidious people of Hūzā whether it was better to eat the דיסא of wheat, with bread of wheat, and that of barley, with bread of barley, or the porridge of wheat with bread of barley, and vice versa.'

¹ Berak. 36b, 37a, and 38a; R. Zabid reciting מוציא וכו' over bread.

² Pesah. 35a, 40a and b, Menahot 70a.

³ Shabb. 140b.

⁴ M. Katan 28a.

⁵ Bezah 16a; Nedarim 49b.

Raba was wont to eat bread with חסיסי (Pers. = ears of corn to be dried), a porridge made from flour of unripe grain dried in ovens. R. Huna once said to his son Rabbah: 'If you are invited to eat porridge, you should accept the invitation, even if you have to walk the distance of a parasang; but to eat bull's meat you should walk even three parasangs.'¹ The groats into which the grain was pounded were of various sizes; thus Abaye explains that חילקא (halica) was half a grain, טרינס was a third of a grain, and טיסנא was a quarter of a grain.² From an anonymous question put to R. Ashi it seems clear that it was quite usual to feed fowls, ducks, and pigeons on wheat and barley.³

There is no necessity to quote many examples of the cultivation of these five species of corn, as whenever there is mention in the Talmud of the cultivation of a field without specification the reference is usually to these cereals. 'The word תבואה produce refers to these five species only', says Abaye.⁴ Many of the examples adduced in the previous chapters deal with the cultivation of these cereals.⁵ It will therefore suffice to quote here but a few cases. Thus we read of Rab reaping his wheat-field during a festival week, also that R. Huna had his grain-field harvested during a festival week.⁶ R. Hilkiah b. Tobi (3rd cent.) possessed a piece of land, half of which he sowed, and the other half he ploughed and left fallow; the following year he reversed the order and sowed the half that had been left fallow. The wheat produced from his field was of a superior quality and was sold for the making of the finest flour סמירא (above, Chap. II).⁷ R. Hanan and R. 'Anan while on a journey saw a man sowing wheat and

¹ Nedarim 49b; Pesah. 39b דאבישנא and 40b.

² M. Katan 13b; Kraus, i. 95, 106.

³ Shabb. 150b אפילו חיטי ושערי.

⁵ B.M. 104b, 106b.

⁷ Menahot 85b.

⁴ Nedarim 55a.

⁶ M. Katan 12b.

barley between his vines (above, Chap. II). R. Joseph, too, is mentioned as mixing various kinds of grain and sowing them together.¹

Rice and millet, as already mentioned, were also important articles of consumption and so, of course, of cultivation.² Bread was frequently made from the flour of these cereals. Thus, Samuel, cited by R. Zera, ruled that bread from rice אורז or millet דוחן could be used for עירוב (all the inmates of a common court contribute their share towards a dish, which is deposited in one of the dwellings, by which act all the dwellers are permitted to carry objects in the court on a Sabbath). Mar 'Ukba, however, disputed this, and said that he had himself heard from Samuel that bread of אורז could be used, but not bread of דוחן. Rab, cited by R. Hiyya b. Abin, ruled that lentil bread could also be used for עירוב. Upon this the question is asked: 'Did it not happen that such bread was once made in the days of Samuel, and was thrown to the dogs as unfit for human consumption?' The reply given was that lentil bread is edible, but the case cited was of bread made from a mixture of various kinds of flour, which certainly was unpalatable.³ Pulse, too, was largely cultivated. 'The tenant farmers of Babylonia may change their crops from grain to pulse, not so those of Palestine', is a teaching of R. Judah previously mentioned.⁴

Next in order of importance should be placed the cultivation of (a) vines, (b) dates, (c) sesame, (d) flax, (e) vegetables, (f) cuscuta (for brewing beer), and (g) other articles.

(a) *vines*. The vine was most extensively cultivated throughout the whole country. Of the grapes, two kinds were distinguished, the black and the white. Thus there is an anonymous saying in the Gemara that if one sees white

¹ Kidd. 39a. ² Berak. 37a, Pesah. 35a אורז ודוחן, Kraus, i. 106.

³ 'Erubin 81a. See Berak. 37a and b; Kraus, i. 103, note 404.

⁴ B.M. 107a.

grapes in a dream whether in season or out it is a good omen; but to see black grapes, if in season, it is a good omen; not so if they are out of season.¹ The chief object of the cultivation of the vine was, however, not the fruit itself, but the making of wine, and of this article many different kinds, varying in quality and colour, were produced.

There is a teaching of Rab, given by R. Zutra b. Tobiyah, that only such wine as was allowed to be used for libation in the Temple could be used for sanctification. 'What kind of wine does Rab mean to exclude?' is an anonymous question in the Gemara. 'Will he exclude black wine (כוש = Ethiopian, negro, 'Aruk and Rashbam), בורק יין white effervescent wine (Heb. בר Rashbam and Jastrow), הליסטון a sweet weak wine (Rashbam and 'Aruk אליסטון, see Menah 87a, Kohut in name of Maimonides = a wine from grapes dried in the sun for three days), של מרתה untested wine from a wine-cellar, or של צמקים raisin wine? (Heb. צמק = dried). These, as we know from a Baraita, did not invalidate the libation once it had been poured.' Again, R. Kahana, the father-in-law of R. Masharshiyah, inquired of Raba as to the law relating to חמר חורין white wine (חור = white). Raba replied by quoting the verse from Proverbs xxiii. 31: 'Look not upon wine when it is red', implying thereby that חמר חורין was not a proper wine.² This wine, as Tosafot rightly comments, must have been a different kind from the בורק, mentioned above. From what has just been adduced, it is clear that all these different kinds of wine were known to the people of Babylonia. The reply of Raba seems to indicate that red wine was considered to be the best. This also follows from a saying of Samuel that, if one has been under the care of a surgeon for blood-letting, he should sell his dearest possessions, even the boots off his feet, in order to buy red wine, because he regarded

¹ Berak. 56b, bottom; Kraus, ii. 233, note 630.

² B.B. 97a and b; see Kraus, ii. 239-41. See Rashbam, 'Aruk.

this as the best tonic for recovering from the effects of blood-letting. Raba was wont, after blood-letting, to drink wine *תרפי בת תלתא תרפי* made from the grapes of three-year-old vines (Rashi and 'Aruk). This, too, was presumably red wine.¹ There was also another kind of wine, made from *שזרים* (lees), of which there were two varieties, one made from *רוקא* (רוק Arab. = strainer containing lees) lees themselves, and another kind made from *פורצני* (פרצן Syr. = kernel) the kernels. Of the two, the better quality was that made from the lees.² The *פורצני* wine was of a very poor quality, and R. Judah admitted that it was not fit to have the special wine-benediction pronounced over it. This was the wine chiefly sold on stalls at street corners. The wine usually sold in the shops was of a slightly better quality, and according to R. Judah was fit to receive the benediction; R. Hisda, however, disagrees with him.³

The good wine of those days seems to have been of extraordinary strength. 'Any wine that cannot bear the addition of three times as much water, is not worthy of the name' is a well-known saying of Raba.⁴ Such, it seems, were the usual proportions for diluting wine with water; but there were people such as Raba who were accustomed to dilute their wine with a larger proportion of water. It is related that he once bought wine from a shop, and, after diluting it, found the taste not to his liking; he therefore returned it to the vendor. On Abaye pointing out to him that the vendor might take advantage of his customers, by selling it again for pure wine, Raba replied that there was no fear of that, for his method of diluting was such that it could be detected at once.⁵ The wine produced by R. Joseph, from the grapes of

¹ Shabb. 129a; see Rashi and 'Aruk.

² Pesah. 42b; see Rashi and 'Aruk.

³ Shabb. 77a; 'Erub. 29b; B.B. 96b; Kraus, ii. 242.

⁴ B.M. 60a; see also Nedarim 55a and 'Erub. 54a.

⁵ B.B. 95b.

his own cultivation, was of exceptional strength, as it could bear twice as much water as that of other people.¹ Pure wine undiluted with water was very seldom drunk in Babylonia, as, whenever there is mention of, or allusion to wine-drinking, it is always referred to as מוזג (Arab. and Syr. = diluted). To cite but a few cases, there is the story of Raba, who visited R. Joseph on the eve of the Day of Atonement, and observed the attendant of R. Joseph diluting the wine for his master to drink; Raba, taking the cup from his hand, diluted it according to his own method and gave it to his teacher to drink.² Again, Samuel, cited by R. Judah, taught that the four cups of wine which are drunk on the eve of Passover must contain such an amount of pure wine that, after dilution, the proper quantity will be obtained. If pure undiluted wine is drunk, in the proper quantity for all four cups, the person has also performed his religious duty. Raba remarked upon this: 'It is true he has done his duty in drinking the proper amount of wine on Passover Eve; but he has not drunk the wine in the manner customary for people to drink it.'³

Examples of vine cultivation in Babylonia have been incidentally adduced in the many examples cited in this and the previous chapters. It will suffice if we cite here a few instances. The vineyard of Samuel lay near to his date-palm grove; this was, no doubt, in the district of Nehardea.⁴ We learn that in his time both Jewish and non-Jewish workmen were employed together in the Jewish wine-cellars of Nehardea.⁵ Ahaba, the father of R. Adda (3rd cent.), was a wine producer; and as his grapes ripened somewhat late in the season, his wine usually appeared late on the market.⁶ Geneba (3rd cent.) was a large wine producer. An idea can be formed of the amount of his production from the legacy he

¹ Menahot 87a; see Rashi there.

² Nedarim 55a; 'Erub. 54a.

³ Pesah 108b.

⁴ B.K. 92a.

⁵ 'Ab. Zarah 56b.

⁶ Hagigah 25a כמותן של בית אביך.

left to R. Rabina. After he was arrested and led away as prisoner, he said, 'Let four hundred zuz, from my wine on the Nehar Pania, be given to R. Rabina.'¹ That R. Huna was a large wine producer has already been mentioned in a previous chapter. His vineyard lay, no doubt, in the district of Sura.² The people of Bar Zitai were cultivators of the vine, and R. Judah allowed them to renew the trenches around the vines during a festival week.³ This town lay, no doubt, in the vicinity of Pumbadita. R. Hisda, too, is known to have been the possessor of a vineyard, which adjoined his date-palm grove, and must have been situated near his native town of Kafri.⁴ The vineyard of R. Joseph was most likely situated in the district of his native town of Pumbadita. The vineyards of Pum Nehara, in the days of Abaye, lay on the banks of a canal, and the road running between them was known as the 'Road of the Vineyards'.⁵ Leathern bottles containing wine were once found among the vines in a Jewish vineyard, and Raba allowed the wine to be drunk, as most of the wine dealers in the district were Jews, and therefore the wine found was presumed to have belonged to Jews.⁶ This must probably have happened in the vicinity of Meḥuza, the native town of Raba. From the many instances adduced, both here and in the previous chapters, it is evident that the vine was most extensively cultivated in all parts of the country, throughout the whole of the period with which we are dealing.

(b) *Dates*. Mention has already been made of the extensive growth of date-palms in the country, and it has been pointed out that large forests of these trees existed, and that they were found growing everywhere by the roadside. These were probably of an inferior quality, the better kind being cultivated. Two distinct species are mentioned, the Persian and

¹ Gitt. 65b; Halevy, iii. 248.

² Berak. 5b.

³ M. Katan 4b.

⁴ B.K. 92a.

⁵ 'Erub. 24b.

⁶ B.B. 24a and b.

the Aramean palms. Thus in the Gemara it is taught that the stones of Aramean dates may be handled on a Sabbath, as they are of poor quality and the dates themselves are frequently given as food for animals; the stones of the Persian dates, however, may not be handled on a Sabbath, as the fruit is of a superior quality, and is never used as food for animals.¹ Again, it is stated that Rab, after his return to Babylonia, was seen eating dates on a Sabbath, and throwing the stones to the animals. The Gemara concluded that it was the Persian dates he was eating, which were of a superior quality, and had no flesh of the fruit adhering to the stone. 'How then did he handle the stones on a Sabbath?' To which the reply is given that it was the Aramean dates that he was eating, the flesh of which always adheres to the stones, for the quality was poor; hence the stones might be handled on a Sabbath.²

A case is mentioned of a man who cut down his neighbour's קשנא (Syr. = date-palm), a species of Persian date-palm. This palm happened to be one of three that grew near each other and were together worth one hundred zuz. The Exilarch, before whom the case was brought, ruled that the offender must pay $33\frac{1}{3}$ zuz, the value of that palm; R. Nahman, however, disagreed and ruled that it should be valued as if it had been one of a grove of sixty palms. The later decision of the Gemara upon this dispute is that R. Nahman's opinion is accepted in cases dealing with Aramean palms, which are of little value, for R. Papa and R. Huna b. Joshua are both mentioned as having ruled in a like manner in a somewhat similar case; the Exilarch's ruling is, however, accepted with regard to the valuable Persian palms.³

¹ Shabb. 143a. I have followed throughout the explanation of Rashi; not that of the 'Aruk אר"כ 2, according to which the Aramean palms were superior, as his explanation is untenable, as has been rightly observed by הפלאה שבערכין. See Low, ii. 323.

² Shabb. 29a; see Rashi.

³ B.K. 58b and 59a. Here too I have followed Rashi's explanation; the

From these examples it is clear that the Persian palm was much superior to the Aramean, and also that the fruit of the latter was frequently used as food for animals; further, we may infer that the קשבה was a species of the Persian palm. The fruit of the קשבה bore the same name as the tree; thus we read of Rabbah sending Abaye with a sackful of קשבה dates as a present to Mari b. Mar.¹

Some palm-trees were extremely valuable. Thus, while on a journey, Rabbah and R. Joseph came across a palm the produce of which was so great and of such good quality that the proceeds from the sale of its fruit enabled its owner to pay his kraga (poll-tax) for the year. Taking into consideration the cheapness of dates in Babylonia, this indicates a most prolific yield.² Although, generally speaking, date-palms were not so valuable as vines, as may be gathered from the stories of both Samuel and R. Hisda, who told their metayers to uproot the date-palms that grew in close proximity to the vines,³ nevertheless, as a permanent investment, yielding a steady return over a long period, date-palms were the more valuable. Thus, in the list of permanent investments in which a man is advised to invest his wife's money, date-palms precede vines, the order being: land, houses, date-palms, other fruit trees, and lastly, vines.⁴ Again, Rabbah b. Huna taught that if one has in his keeping property belonging to an orphan, who is a minor, he should invest it for him in date-palms, thereby safeguarding the principal while assuring him with the income of the fruit every year.⁵ Dates were also used for the manufacture of honey דובשא דתמרי; 'This honey

'Aruk himself in קשב 2 admits that Persian were the better kind. See Low, *ibid.* See also 'Ab. Zarah 14b קשבה = חצב. See Low, ii. 321.

¹ Megillah 7b.

² 'Erub. 51a. See Funk ii. 12 for amount of kraga, and Chap. XI.

³ B.K. 92a.

⁴ Ketub. 79a; see Tosafot B.K. 92a למחר, and B.B. 82a מתקין.

⁵ B.B. 52a.

does not require a special benediction' is a teaching of Mar b. R. Ashi.¹ Because of the abundance of this fruit, it was a common saying of R. Johanan to his disciple R. Hiyya b. Abba, the Babylonian, 'while you were eating poor dates in Babylonia, I was able to explain this matter'.²

Instances of the cultivation of this fruit are very numerous in the Talmud. Some have already been quoted incidentally in this and the previous chapters. It will suffice if we quote here a few examples. R. Joseph possessed a grove of young date-palms, which was situated, no doubt, in the vicinity of Pumbadita.³ Adjoining his vineyard was the date-palm grove of Raba b. R. Hanan, and the birds gathering on the palms caused much damage to the vines of R. Joseph. The latter requested Raba to cut down his palms, to which the other replied that, as he had left the proper space between the palms and the vines, there was no necessity for him to do so; R. Joseph, however, pointed out to him that between vines and trees a larger space must be left than is necessary in other cases. Raba, however, in deference to Rab's teaching, that a palm bearing even one kab of dates should not be cut down, declined to cut down the palms, and said to R. Joseph that, if he desired, he could have them cut down himself.⁴ Abaye had a date-palm growing in his house with its top passing through a skylight in the roof;⁵ this was, no doubt, in Pumbadita. The date-palms of R. Papa, previously mentioned, were most likely in the vicinity of Neresh, his native town. That date-palms grew in the districts of Nehardea and Kafri is clear from the story of the groves of Samuel and R. Hisda already mentioned. It is clear, therefore, that this tree was extensively cultivated, and played an important part in the economic life of the people.

¹ Berak. 38a.

² B.B. 107b; Bekorot 18a. כַּפְנִיָּתָא = unripe dates, Rashi; see Kohut.

³ B.B. 22b and 23a.

⁴ B.B. 26a.

⁵ 'Erub. 100a.

(c) *Sesame and Oil.* The olive-tree, which was so abundant in Palestine, does not seem to have flourished to any great extent in Babylonia. From extraneous sources we learn that after the war with Julian it was more extensively cultivated there.¹ The oil commonly used was that extracted from the sesame-seeds. This oil, we know, was used in Babylonia even before the third century. Thus, when R. Tarfon taught that only olive-oil could be used for the Sabbath lights, R. Johanan b. Nori arose and exclaimed, 'If so, what will the people of Babylonia do, who have only sesame-oil; or of Media, who have only nut-oil; or the Alexandrians, who have only radish-oil; or the Cappadocians, who only possess naphtha?'² Further, there is a Baraita that teaches that if one makes a vow not to partake of oil, if he is in Palestine at the time, the vow is understood to refer to olive-oil; but, if he is in Babylonia, it refers to sesame-oil.³ This must not be taken to imply that olive-oil was unknown in Babylonia, but only that it was not so commonly used as sesame-oil. That olive-oil was also used, and that its price was not prohibitive, is seen from the following instance. Abaye related that Rabbah was wont to use sesame-oil for his Hanuka lights (see Tosafot), because its light lasted longer; but after he had heard the saying of R. Joshua b. Levi, that olive-oil gives forth the brightest light, he began to use that oil instead.⁴

Sesame-oil was not only used for lighting purposes, but also served as an important article of food of the people. This follows from the difference of opinion between Rab and Samuel, as to whether heathen oil may be used as food. The former was of the opinion that it is forbidden, and the latter that it is not. The Gemara further relates that Samuel subsequently compelled Rab to partake of such oil.⁵ In combination with

¹ See Funk, ii. 81; also Kraus, ii. 215, note 477.

² Shabb. 26a; see 'Aruk, Kohut, Kraus, ii. 226, notes 568-76.

³ Nedarim 53a. ⁴ Shabb. 23a. ⁵ Jer. 'Ab. Zarah, ii. 8; Jer. Shabb. i. 4.

other ingredients, it was used for the making of various dishes, such as the one called טריטא of sesame. Because of its many uses, sesame-seed was greatly in demand and its price was comparatively higher than that of wheat, dates, or pomegranates. This follows from the example, already adduced, of the metayer who sowed in his field wheat instead of the more expensive sesame which he had undertaken to cultivate.² Again, the expression in the Gemara,³ 'A person will not renounce his ownership over sesame, as it is expensive, whereas over wheat, dates, and pomegranates, he will', is a clear indication of its greater value in comparison with these articles.

Sesame, because of its supreme importance to the economic life of the people, was undoubtedly very extensively cultivated; although the examples of its cultivation, in the Talmud, are not nearly so numerous as those of the cultivation of the vine and the date. A few examples have already been adduced incidentally. As is well known, R. Papa was both a cultivator of and a dealer in sesame. He once bought a sesame field, but the amount of oil it produced for him was less than that vouched for by the vendor.⁴ In partnership with R. Huna b. Joshua, he bought a large consignment of sesame from the producers on the banks of the Nehar Malka, and he hired bargees to convey it to his destination. As the canal happened to become stopped up, he had no alternative but to convey the oil by means of asses.⁵ We have already had occasion to mention the sesame cultivators whom R. Judah allowed to uproot that plant during a festival week. This was presumably in the district of Pumbadita. In the days of Samuel we read of the oil-pressing houses of Nehardea, and of Pumbadita in the time of Rabbah.⁶ A certain person called Papi Yonai was a poor man who became wealthy and

¹ Berak. 38a.² B.M. 104b.³ B.M. 21a.⁴ B.B. 106a and b.⁵ Gitt. 73a.⁶ B.K. 27b.

built for himself a palace close to an oil-pressing house; the vibration caused to his palace by the grinding of the mills became a matter of litigation. The fact of the case being brought before R. Ashi is a reliable indication that it happened, most likely, in Mata Mehasya, or in its vicinity.¹

Other oils besides those of the sesame and of the olive were used in Babylonia, but they were neither so common nor of such good quality. The cotton-seed oil, which was known in Babylonia under the name of *משחא דקאזי* (Pers. = cotton), is mentioned. According to R. Isaac b. R. Judah, this is what is meant in the Mishnah by *שמן קיק*.² Oil of roses was quite commonly used in the country. Rab taught that oil of roses *משחא דוורדא* may be used on a Sabbath for anointing sores and swellings, 'Because', says the Gemara, 'in his district, oil of roses was very common, and it was usual for people to anoint themselves with it'.³ Balsam-oil *אפרסמא* (Syr. = balsam) was used as a perfume, but, because of its volatility, could not be used for lighting. The story is told of a mother-in-law who persuaded her daughter-in-law to use this oil as a cosmetic, and then induced her victim to bring a light close to herself, which caused the perfume to ignite, with fatal results to the daughter-in-law. According to R. Isaac, a special benediction is assigned for this oil.⁴ Use was also made of pitch *זפתא*, and *עטרנא*, which Rami b. Abin explained to be the oily residue of pitch. This, as Raba says, cannot be used for the Sabbath lamp because of its unpleasant odour.⁵ Melted fat of animals and fish-oil were also used in Babylonia, as may be gathered from a statement of Rab, cited by R. Brona.⁶ Wax too was used for lighting,

¹ B.B. 25b, 26a.

² Shabb. 21a; see Rashi and 'Aruk, Kraus, ii. 226, note 571.

³ Shabb. 111b; Kraus, i. 236.

⁴ Shabb. 26a; Berak. 43a; Kraus, i. 234-5, notes 254-63.

⁵ Shabb. 20b, 25b; see Kohut, Kraus, ii. 226.

⁶ Shabb. 21a; Kraus, *ibid.*

chiefly in the form of candles פתילות, and in that form it could be used even for the Sabbath lights. This may be inferred from an incidental expression in the Gemara: 'One might think that wax was forbidden to be used for the Sabbath lights not only in the form of oil, but also in the form of candles פתילות; it is however not so.'¹ None of the oils just mentioned were of such economic importance as the sesame-oil, which was the chief means of lighting and heating, and served also as an important food.

(d) *Flax*. As already mentioned, linen was one of the most important articles of commerce in Babylonia, and indeed the most important apart from foodstuffs. The fact of a special market being assigned to flax, in Pumbadita, and also that a certain part of the same town was known as the district of flax soaking, are a sure indication of the importance of this article.² There is therefore no doubt that this plant was extensively cultivated in all parts of the country. This may also be gathered from the homily of Rab, cited by R. Judah b. Samuel b. Shilas, on the words of Jeremiah (xxix. 11): 'A hope in your latter end': this refers to the dates and the linen of Babylonia (see Chap. I).³ The best kind of flax was that which grew in the district of Nehar Abba, as is revealed by the saying of R. Hisda: 'A student (who was usually very poor) buying a linen garment should see that he obtains one made from the linen of Nehar Abba; he should then have it cleaned every thirty days, and I vouch that it will last him at least a year.'⁴

As examples of flax cultivation we have the case of the man who sowed flax in his field during the Purim Festival, in the days of Rab.⁵ This was most likely in the district of Sura. R. Judah taught Rabin b. R. Nahman that cress growing among the flax may be plucked by the passers by,

¹ Shabb. 20b.² Gitt. 27a.³ Ta'anit 29b.⁴ Shabb. 140b.⁵ Megillah 5b; Kraus, i. 139, note 122

and this is not to be considered theft, as it is only a weed, and the owners are naturally pleased if it is uprooted.¹ We also read of the same R. Judah allowing people to uproot their flax during a festival week;² this happened most likely in the district of Pumbadita.

We may also mention in this connexion the cultivation of hemp צדרא (Arab. = hemp). The cloth of this material was very common and cheap, even more so than linen. 'Sufficient hempen cloth to make a shroud for a fully grown person could be purchased for a zuz', is a saying of R. Papa.³ There is therefore no doubt that this plant was extensively cultivated in Babylonia. As ropes were chiefly manufactured from hemp, and the town of Kamhonia, in the province of Sura, specialized in the manufacture of ropes, it is very likely that hemp was extensively cultivated in the vicinity of that town.⁴

(e) *Vegetables.* Vegetables were a very popular food, and the eating of them was greatly encouraged by the Rabbis. R. Huna maintained that a scholar should not dwell in a town which does not possess a sufficient supply of vegetables for its inhabitants; to this the objection is made that in a Baraita it was taught to the contrary. A distinction is therefore drawn in the Gemara between חומי (Syr. and Arab. = garlic), כרתי (Syr. and Arab. = leek) and other vegetables.⁵ R. Huna did not confine himself to preaching about the subject, but, suiting the action to the word, he bought up all the vegetables left on the hands of the gardeners who had brought them to the weekly Friday market. His object in doing so was to encourage the gardeners to bring a sufficient quantity to the market, so that there should be a plentiful supply at a reasonable price for everybody (above,

¹ B.M. 107a.

² M. Katan 12b.

³ B.M. 51a, Ketub. 8b.

⁴ Ketub. 67a. See expression of R. Papi.

⁵ 'Erub. 55b, 56a; Kraus, i. 117, note 625.

Chap. I).¹ R. Hisda, although he did not deny the health-giving properties of vegetables, did not advise poor scholars to eat them, as they developed a keen appetite, which the scholar would be unable to satisfy. 'Neither when I was poor, did I eat vegetables, nor do I do so now that I have become rich', he is also found saying, 'When poor, because it engendered a healthy appetite, and now that I am rich I say to myself, that instead of vegetables I prefer to have meat and fish.'²

From the numerous instances in the Talmud of the many different kinds of vegetables used as food, it is clear that they were extensively cultivated and very commonly used; it nevertheless appears that the market gardeners were generally poor. Thus we read of a number of market gardeners who only possessed one spade among them. This spade they were accustomed to give into the keeping of an old woman; it was subsequently stolen, and the question of responsibility was raised. This happened in the days of Rab and most probably in his district.³ Vegetable gardens were mostly found on the outskirts of the town.⁴ The bundles into which vegetables were tied by the gardeners are frequently mentioned in the Talmud. R. Hisda, in his advice to students, said: 'When one proposes buying vegetables, he should choose a long bundle, as the thickness of all bundles is the same, and he has the benefit of the extra length.'⁵ There is also the advice that vegetables should not be pulled from the bundle, but before taking any the bundle should be untied.⁶

Vegetable gardens are often mentioned in the Talmud. Some instances have already been given incidentally in this and the previous chapters; a few will be cited here. Rab

¹ Ta'anit 20b.

² Shabb. 140b; Kraus, *ibid.*, note 620.

³ B.M. 36a; cf. Kraus, *ii.* 198.

⁴ B.B. 68a ג'נינותא; see Rashbam and 'Aruk.

⁵ Shabb. 140b.

⁶ *Ibid.* 82a; Hull. 105b כ'ישא דאסיר ג'נאה; cf. Kraus, *ii.* 199.

possessed a large vegetable garden in which each species was sown in a different bed; this he did both for the sake of improving the appearance of the garden and also for practical purposes. Its produce was set aside for the benefit of the scholars who attended his academy.¹ Raba also taught that if one gives money to a market gardener for small pumpkins and the gardener says, 'I shall supply you with pumpkins a cubit long, later in the season'; if the gardener had no such pumpkins in his possession at the time of the contract² there is an infringement of the laws of interest. We also read of a market gardener who sold cress to a sick Arab, the latter intending to use it as a medicine.³ Further, there is a case, that happened in the days of Nahman, of market gardeners who were partners, one of them drawing up the accounts and paying out each partner his share. It was subsequently discovered that $2\frac{1}{2}$ zuz were left with one of them. This amount his partners asked him to pay to the owner of the ground. On re-examining the accounts, he found that there had been a miscalculation and that he had received nothing more than his rightful share.⁴

(f) *Beer and Cuscuta*. Beer was very largely drunk in Babylonia. R. Johanan observed that one of the reasons why the Babylonians did not suffer from leprosy was because they were accustomed to drink beer.⁵ In some parts of the country it was as much the national drink as wine in Palestine. R. Hiyya (2nd cent.) taught that the beer-cellars of the householders in Babylonia are under the same laws, with regard to inspection before Passover, as the wine-cellars of the people in Palestine.⁶ Mar Yanuka and Mar Kashisha, the sons of R. Hisda, related that they were once visited at their home, most probably either in Sura or Kafri, by Amemar (4th cent.), who is known to have lived in Nehardea.⁷ At the

¹ Kidd. 39a and b. ² B.M. 64a. ³ Shabb. 110b; Kraus, ii. 198. ⁴ Gitt. 14a.

⁵ Ketub. 77b. ⁶ Pesah 8a; Kraus, ii. 244. ⁷ B.M. 16b, 35a; B.B. 31a.

termination of the Sabbath, it was found that there was no wine in the house for the recital of the *הברלה* (special prayer for the termination of the Sabbath); they offered him beer instead, but he would not use it. The following year Amemar again happened to stay with them, and again there was no wine in the house, and they proposed that he should use beer for the *הברלה*. Seeing this he remarked that, as beer seemed to be the common drink in the district, it might be used for the recital of the *הברלה*.¹

From the foregoing it clearly emerges that beer was a common drink in the district of Sura, in the southern portion of Babylonia, but was little used in the northern portion around Nehardea. This also follows from the fact that R. Huna once observed Rab using beer for the recital of the *קידוש* (special prayer for the sanctification of the Sabbath).² Again, both R. Huna and R. Hisda are found discussing the question whether beer could be used for sanctification and *הברלה*; now, as it is well known, the former lived in Sura and the latter in Kafri, both of which towns were situated in the south of Babylonia.³ Further, Rab is known to have dealt in beer, as may be inferred from a remark of R. Huna to him.⁴ R. Hisda and R. Papa, who lived in Neresh, in southern Babylonia, are known to have become wealthy from brewing beer.⁵

On the other hand, we find Samuel, who lived in Nehardea, cited by R. Taḥlifa b. Abima, as prohibiting beer from being used, either for sanctification or for *הברלה*. It is also related of him that he could not pray with devotion in a house where beer was to be found, so obnoxious was its odour to him.⁶

¹ Pesah 107a.

² Ibid. See also *ibid.* 113a, his advice to his son: 'Send your dates to the brewer without delay.'

³ Ibid. 107a.

⁴ Ibid. 'שרי ליה אבא וכ'; see Rashbam.

⁵ Ibid. 113a.

⁶ Ibid. 107a; 'Erub. 65a.

Again, R. Nahman, who lived both in Meḥuza and Nehardea, distinctly stated that he did not drink beer.¹ R. Joseph, who was in Pumbadita, once exclaimed that he would take a public oath not to drink beer, and his disciple Raba of Meḥuza declared that he would rather drink the water in which flax was soaked than drink beer.² From what has just been adduced it is evident that the beer-drinking district was southern Babylonia, while in the north of the country this beverage was not so popular. R. Hiyya, who spoke of the beer-cellars of Babylonia, must have had the southern portion of the country in mind, as he himself is known to have been a native of Kafri, which was situated in the south. Although beer was not so popular in the north as in the south, it was much cheaper than wine, and the poor had to content themselves with it. R. Bibi, who lived in Pumbadita (see Kidd. 76b), drank beer, as he could not afford wine.³ There is also the saying of R. Papa, 'He who enjoys drinking beer, and drinks wine, is wasting his money',⁴ to which the retort is made, 'Rather to waste one's money than to waste one's health', implying that wine is a healthier drink than beer, a fact which R. Papa himself admitted on another occasion.⁵

Cuscuta (כשות Pers., Arab., and Syr. כשותא), a plant peculiar to Babylonia, as testified by Pliny, was used for the brewing of beer. R. Hanina (3rd cent.) remarked that the reason the Babylonians were free from the disease of ראתן was because they drank beer brewed with כשות that grew upon thorns (above, Chap. I).⁶ R. Judah, we learn, once allowed כשותא to be cut during a festival week, because it could be used for making beer.⁷ On account of its great usefulness, this plant was extensively cultivated, and grew in great abundance. So remarkable was its growth that in some districts the owners

¹ Shabb. 80b. ² Pesah 107a. ³ Shabb. 80b; see also Hull. 105b.

⁴ Shabb. 140b.

⁵ B.B. 91b.

⁶ Ketub. 77b. See Rashi and Kohut כשות.

⁷ M. Katan 12b.

did not object to strangers picking the plant. In the district of Mata Mehasya, however, the owners were known to object to this,¹ the reason being, I think, that, as already proved, beer was largely consumed in that district, and therefore cuscuta was of greater value there than in the north.

The common kinds of beer were made from dates, as follows from the advice of Rab to his son, 'As soon as you have unloaded your dates, take them to the brewer.'² The better qualities were made from barley פִּירוֹמָא (Gr. = barley) and they were also known as Median beer.³ Good beer was also brewed from figs חֲאֲנִי and from a berry called אֲסִנִּי. R. Huna questioned R. Hīṣda as to whether ordinary beer (date beer) could be used for sanctification, and the latter replied that he had once questioned Rab with regard to the better kinds of beer just mentioned, and could obtain no authorization for their use, *a fortiori*, that ordinary beer should not be used for this purpose.⁴

(g) *Other Products.* Of the other produce of the soil, the most highly prized was the saffron plant כִּרְכֹּם (Syr. and Pers. = saffron, Arab. موركيا). The value of the species כֹּרְכֹּמָא וְרִישָׁקָא was greater than that of any other thing produced by the soil in Babylonia. R. Judah, speaking to R. Adda, the surveyor, said: 'Take heed how you measure fields, as every small plot of ground is valuable, for saffron can be cultivated on it.'⁵ Again, R. Papa, in his claim for a share in the permanent improvement brought to the field by the date-palms that grew up while he was metayer, pleaded that he could have cultivated saffron in the place occupied by the palms, and was therefore entitled to compensation.⁶ From the fore-

¹ B.K. 119b. See Rashi there, who assigns the reason to the fact that they were cattle-breeders. This explanation naturally follows from the fact that חֲזִין (unripe grain) was greatly valued in Mata Mehasya.

² Pesah 113a. ³ Pesah 42b. ⁴ Pesah 107a; see Kraus, ii. 244, and i. 245.

⁵ B.M. 107b; Kraus, i. 118, note 629; cf. B.K. 81 אֶפֶּלֹ בְשֶׁרָה כִּרְכֹּם.

⁶ B.M. 109a.

going it follows that saffron was usually cultivated in small plots of ground, but cases are found where whole fields were devoted to its cultivation. Thus we read of a case, in the days of Raba, where Jews and heathens held saffron fields in partnership, and the arrangement between them was that the heathens should cultivate the field on Sabbaths and the Jews on an agreed weekday instead; the rest of the week they all worked together.¹

Spices are frequently mentioned in the Talmud as being much used in Babylonia, and it is only natural to suppose that they were cultivated there. The most common spices were pepper, *פלפלין*, ginger, *ונגבילא*, and mustard, *חרדל*.²

Fodder for animals was extensively grown, and people are mentioned as renting fields to cultivate it. Thus R. Papa once hired a field to cultivate fodder.³ Again, we read of a tenant who leased his field to cultivate fodder at a yearly rental of a kur of barley.⁴ It was usually cut every thirty days, as may be inferred from an anonymous question in the Gemara: 'If one harvested three crops in three months, which is only possible in the cultivation of fodder, would it, according to the opinion of R. Ma'ir, give him title to the field?' From another question it may be inferred that the fodder was sometimes cut even three times in a single month.⁵ The people of Meḥuza used their unripe grain as fodder for their animals. Even at the present time the Arabs in Babylonia have been observed to do likewise.⁶

¹ 'Ab. Zarah 22a *מוריקא*; see Kohut.

² Berak. 36b *פלפלי וונגבילי* ב, Shabb. 141a; Pesah. 28a *חרדל*, see Joma 85b; Megillah 7a; Hagigah 10a; Kraus, i. 118, notes 637, 647.

³ B.M. 109a.

⁴ B.M. 106b.

⁵ B.B. 28b.

⁶ B.B. 36a; see Rashbam on *בצואר מחוזא*. See Reclus, *Un. Geog.* ix. 209. See above, p. 110, n. 1.

VII

LIVE-STOCK REARING

LAND cultivation was not the only industry which engaged the attention of the Babylonian Jews, although a great number, if not the majority of the people, were employed on the land. This has already been sufficiently demonstrated in a previous chapter. A goodly number of the people could also be found who made their living as shepherds, cowherds, and breeders of animals and birds.

Shepherds. Mention has already been made that the law of the Mishnah which prohibits the rearing of small cattle, such as sheep and goats, in the cultivated districts of Palestine, was also applied to Babylonia from the time of the return of Rab to his native land, in the year 219.¹ For the purpose of strengthening this law, it was further enacted that both the average neatherd and shepherd were not acceptable as witnesses in the courts. Thus R. Judah (299) ruled that the evidence of the average shepherd should not be accepted, while Raba (d. 352) added that the shepherds referred to included also neatherds.² The reason for these enactments was because these people usually allowed their animals to pasture in the fields of others. The necessity for R. Judah's ruling is, however, in itself a proof that there existed Jews who were by profession shepherds or cowherds. Of this an example is found in the Gemara, where Samuel speaks of a shepherd who kept his own animals which he used to sell to householders.³

The enactment which deprived the average shepherd of

¹ See Introduction.

² Sanhed. 25b רועה שאמרו אחר רועה בהמה דקה; סתם רועה פסול ואחר נסה.

³ Bezah 38a שור של רועה וכו', see Rashi = person tending his own cattle who sometimes sells them to others.

the right of giving evidence is anonymously explained in the Gemara to refer only to such as tended their own flocks, but not to shepherds employed by others to tend their flocks; for the saying is, 'A person will not do wrong when the benefit derived from such action does not accrue to himself.'¹ A shepherd tending the flocks of others will not therefore wilfully pasture the animals in other people's fields to benefit his employer. Such being the case, there was nothing in the law preventing a person owning animals, and employing others to pasture them. The professional shepherd was therefore quite an honourable calling, and some well-known pious people made their livelihood by this means. Thus, in the days of Rab, there is mention of a shepherd of the name of Benjamin, who composed the formula of a benediction which is in use among Jews even at the present time.² We also learn that Rab himself spent eighteen months among the shepherds for the purpose of studying the nature of animals,³ and it is not improbable that during that period he earned his livelihood by tending the animals. R. Huna, too, in his younger and less prosperous days was a cowherd, and yet it is clear from the Gemara that his evidence was accepted, and the reason was because he was employed by others and received a wage for his work.⁴ There are many other instances in the Gemara of references to shepherds. We will cite here but a few. There is the well-known case of the shepherd to whom the animals were usually delivered in the presence of witnesses; it once happened, however, that he was given charge of the animals when no witnesses were present. Taking advantage of this, he denied having received them. The case came before R. Zera (end of 3rd cent.).⁵ There is also the case of the shepherd who led the animals on the banks of the Nehar Papa, in the vicinity of

¹ B.M. 5b.² Berak. 40b וכו' רעיא כרך.³ Sanhed. 5b.⁴ Jer. Sanhed. i. 1.⁵ B.M. 5a.

Pumbadita, when one of them slipped into the canal and was drowned. The question as to whether the shepherd was responsible to the owners was brought before Rabbah (d. 320).¹ A somewhat similar case was that of the shepherd b. Adda Sabuloah, who was leading the animals under his care over a narrow bridge across the Nehar Neresh, when one of the animals pushed the other into the canal and it was drowned. The question whether b. Adda was responsible to the owners was brought before R. Papa (372).² As will at once be seen, all the shepherds mentioned in the examples adduced were employed by others to pasture their sheep. That there was no lack of shepherds in Babylonia also follows from the well-known saying of R. Papa, in connexion with a case of an unworthy successor to a distinguished man, 'Where the master used to hang his armour, the unworthy shepherd now hangs up his pitcher.'³

The shepherd who had care of more animals than he could manage by himself, which was not an unusual happening, employed lads to assist him. Thus the question is raised in the Gemara whether the shepherd was to be held responsible for anything happening to the animals left by him in the care of the assistant, or whether it should be considered as if it had happened under the care of the shepherd himself. Rabbah ruled, since it is understood that a shepherd usually leaves the animals in the care of his assistant, it should be considered in the same light as if they were under the care of the shepherd himself.⁴ This discussion clearly indicates that the assistants were usually employed by the shepherds themselves and not by the owners of the animals.

For the better protection from thieves, robbers, and wild

¹ B.M. 93a. ² Ibid. 93b. See Funk, i. 22; Kraus, ii. 140, note 980.

³ B.M. 84b; Sanhed. 103a.

⁴ B.K. 56b כְּרִיילָה = assistant, Rashi; 'Aruk reads כְּרִיילָה (Syr. כְּרִיילָה = chief shepherd), Kohut.

beasts, which it seems were sometimes encountered in Babylonia, it was usual for a number of shepherds to pasture their flocks and herds near each other. This follows from the question raised whether the shepherd could be held responsible if he was the indirect cause of the robbery. Thus, if he met the robber and insulted him and dared him to commit the robbery, saying to him 'we are feeding our flocks in such and such a place, we have so many men and so many dogs, with so many slingthrowers assigned for our protection, and the robber did commit the robbery, would the shepherd be held responsible?'¹ This instance also shows that the Babylonian shepherds did not differ from their namesakes in other times and other climes and employed that useful animal the sheep dog.

Flocks and Herds. The undertaking of rearing sheep and goats, in Talmudic times, both in Palestine and Babylonia, was a very profitable one. That it was so in Palestine there is the statement of R. Johanan: 'If one is desirous of becoming wealthy, he should devote himself to the rearing of small cattle,' while for Babylonia there is the anonymous expression in the Gemara, that one should always be prepared to sell his field and invest the proceeds in flocks; but one should not sell his flocks to invest in land. Again, R. Hisda, in a homily on *ועשתרות צאנך*,² declared that they are so called because flocks bring wealth to their owners.³ Since breeding of small cattle was so profitable an undertaking, one would expect to find in Babylonia many owners of large flocks and herds; there is nothing, however, to indicate that such was the case, nor in the nature of things could it be so; for the land was exceptionally fertile, and almost everywhere capable of being cultivated profitably; there was no room, therefore, for the pasturing of large flocks and herds.

¹ B.M. 93b, 94a.

² Deut. vii. 13.

³ Hull. 84a and b *לעולם ימכור וכו'*, Kraus, ii. 113.

Although we come across references to flocks of goats and of sheep very frequently, there is nothing to indicate that they were large. Thus R. Zera once asked R. Judah why the goats always walked in front of the flock while the sheep followed behind. The latter answered, because it is in keeping with creation, first darkness, then light.¹ Again, there is the anonymous ruling in the Gemara that in selling flocks, as soon as the vendor delivered the shepherd's bell (קרקשתא, also כרכשתא) the purchaser legally acquires the flock. R. Jacob (end of 3rd cent.) declared that by delivering the goat that usually walks in front of the flock the transaction is legally completed.² From the foregoing it appears that goats and sheep were commonly kept in the same flock, which fact is in itself a strong indication that the flocks were not large. Further, we learn incidentally that the colour of the Babylonian goats was usually black.

Although flocks and herds were not reared on a large scale, there was no lack of such animals in Babylonia. In keeping with the anonymous advice in the Gemara that one should cover himself with the wool of his own sheep and drink the milk of his own sheep and goats,³ it was usual for householders to keep a few goats, sheep, or cows, chiefly for their own needs. Thus Rab and Samuel dispute over a ritual question concerning the animals and birds that are usually kept by householders, such as goats for their milk, sheep for their wool, chickens for their eggs, and oxen for ploughing.⁴

For tending their animals, a number of householders would together employ the services of a common shepherd. Thus there is the case of the shepherd to whom the householders usually delivered their animals (see above). We also read of a dispute arising between householders as to the number of

¹ Shabb. 77b.

² B.K. 52a; Kraus, ii. 113.

³ Hull. 84a מנו כבשים וכו', ד"י לאדם שיתפרנס וכו'.

⁴ Shabb. 19b.

animals each had delivered into the keeping of the shepherd. In all such disputes R. Papa ruled that, in cases where the animals were placed in the herd or flock, under the charge of the shepherd, by the householders themselves, not in the presence of the shepherd, the latter leaves the number of animals under dispute with the disputants and departs, allowing them to settle their differences among themselves, because under such conditions the shepherd was not expected to know the exact number each individual placed under his charge.¹

The shepherds collected the animals in the morning and returned them in the evening. In most places the animals were allowed to go by themselves to the shepherd, and in the evening each one found its way home, but in places where thieves were common it was usual to collect the animals and bring them back. The foregoing follows from a case where some goats entered a strange field, and ate up some peeled barley that was lying there. The owner of the field seized the goats and claimed heavy damages. The father of Samuel, before whom the case was brought, ruled that he could claim up to the value of the goats; for had the claimant wanted to lie, he could have claimed the goats as his own, for reason that goats were usually placed under the keeping of a shepherd and not usually allowed to stray about alone. Upon this the objection is at once raised, but there are mornings and evenings when the animals find their way to the shepherd by themselves and find their way home by themselves, when it is possible for any one to take them. He could not therefore have claimed the goats as his own. To this the answer is given that as the case happened in Nehardea where there were many Arabs (thieves) animals were therefore always delivered and returned under care.²

Breeders and Fatteners. The profession of breeder and

¹ B.M. 37b בשנים שהפקירו אצל רעהו.

² B.B. 36a; see Rashbam.

fattener was just as common as that of shepherd, and as in the latter profession it was usual for one to tend the sheep of others, so was it also the case with fatteners and breeders. It was also quite usual for a shepherd to combine the vocation of fattener with that of tending flocks or herds, but the person who specialized in breeding and fattening animals was common. Thus Samuel speaks of the fattener who used to fatten his own animals for the purpose of selling them to the householders.¹ In the Gemara there is frequent mention of the שור של פטם fattened ox, which the butcher used to buy from the fattener.² Fatteners and breeders also worked under partnership arrangements with owners of animals and birds. The animals and birds were given into the care of the fattener or breeder for a certain period. These were valued at the time of receipt, and again at the termination of the period; the difference in value was then shared between the owner and the fattener. In the case of breeders, the young were also shared. In order that such arrangements should not be in conflict with the laws relating to interest, it was usually agreed that the fattener should receive a small remuneration in addition to his share of the increased value. Thus Rab declared that one may give a calf to a fattener on the following conditions: all the increase effected in the value of the animal above a third of its present value should belong to the fattener, while the increase of the third itself should be divided between the owner and fattener. Samuel, however, declared that in order to avoid coming into conflict with the laws of interest, it was necessary to assign a fixed remuneration to the fattener, over and above his share in the increased value.³ It was further declared, by Rab, that by giving the head of the calf to the fattener, in addition to his share

¹ Bezaḥ 38a שור של פטם.

² Hull. 95a, also 'Ab. Zarah 16b.

³ B.M. 69a מותר שלישי; see Gemara and Rashi *ad locum*.

of the increased value, conflict with the laws of interest is avoided.¹

The following story also throws much light on our subject. R. Ele'azar of Hagronia, a town in the vicinity of Nehardea, who lived in the second half of the fourth century, allowed his animal to be fattened by his metayer on the profit-sharing basis. At the end of the period of fattening he gave the head of the animal to the metayer, in addition to half of the increased value. Observing this, the wife of the metayer said to him, 'If you were to buy an animal in partnership with R. Ele'azar, surely you would also receive the tail of the animal.' Accordingly, he therefore bought an animal in partnership with R. Ele'azar, and fattened it. At the end of the process, R. Ele'azar divided with him the body of the animal and also the tail. Coming to the head, he began to divide that too; upon this, the metayer remarked that it seemed that he was now worse off than before he became partner. To which R. Ele'azar replied that when the animal was entirely his own, if he had merely given the metayer half of the increased value it would have appeared as if he were receiving interest—he had perforce to give the head to the fattener, in order to avoid this; but now that they were partners in the animal, and both had provided the food, each one was only entitled to half. Nor was the metayer entitled to receive anything for his trouble, because it was usual for a metayer to trouble himself with feeding the animals of his landlord.² This story also illustrates the fact that the ordinary Jew in Babylonia was not fully acquainted with the intricacies of the laws of interest; hence the miscalculation of the metayer.

It is only natural to assume that those who found their livelihood by fattening their own animals for sale would at the same time receive animals from other people to fatten

¹ Ibid. ריש עגלה לפטומא.

² Ibid.; see Gemara and Rashi.

for them, on terms similar to those previously mentioned. Such also follows from the anonymous statement in the Gemara, 'It deals with a case where the fatterer has his own animals to fatten, in addition to those he receives from others.'¹

Fatteners usually also acted as breeders, and, as mentioned above, in such cases they received half of the young. A breeder was not expected to look after the young of small cattle for more than thirty days, and in the case of large cattle for more than fifty days; but from those periods onwards he should receive, in addition, a share in the improvement effected in that half of the young which was the share of the owner. There were also districts where it was customary to tend the young till they were fully grown. The above, it is true, is taken from the ruling of a Mishnah and Baraita, and naturally portrays Palestinian conditions; the same conditions, however, existed in Babylonia. Such is clear from the story related of R. Manasseh b. Gada (4th cent.), who received animals to breed, and he tended the young for a longer period than that prescribed in the Baraita. At the termination of the agreed period, he claimed half of the young and in addition half of the increased value in the share of the young that belonged to the owner. The owner refused to allow him all he claimed, and the case was brought before Abaye, who rejected R. Manasseh's claim for two reasons. Firstly, because the young were not valued at the end of the thirty or fifty days; secondly, because in that district it was the custom for breeders to tend the young until the animals were completely grown up.² The fact that R. Manasseh was not aware of this custom seems to indicate that the custom varied in different parts of the country, and R. Manasseh may not have been a native of Pumbadita, the town of Abaye. Other professional

¹ B.M. 69a ליה בהמה לרדיה. ² Ibid.; see Gemara and Rashi.

fatteners are also mentioned in the Gemara. Thus there is the case of a woman proselyte, in the days of Raba, who was employed by her heathen brothers to fatten animals for them,¹ while in the fifth century there is mentioned an expert fattener called Zabida, whom R. Ashi consulted on the nature of fattened animals.²

We will now consider the domestic animals and birds that were chiefly reared and kept in Babylonia.

Goats. The animal most commonly kept by householders, at least by those who lived in towns, was the goat. Such appears to be the case from the many instances relating to this animal found in the Gemara, some of which have already been cited. These animals, with their natural propensity for mischief, roamed about the streets, doing much damage, which was a frequent cause of litigation. Thus we learn that the goats belonging to the family of Tarbo were in the habit of causing damage to the fields of R. Joseph, and the latter sent Abaye to warn the owners to take care of their goats.³ This must have been in the vicinity of Pumbadita, the town of R. Joseph, and somewhere about the beginning of the fourth century. Another instance is that mentioned with regard to a he-goat that saw some turnips lying on a cask, and, jumping on the cask, it ate up the turnips and broke the cask in the process.⁴ As the case came before Raba, it must have happened in Meḥuza, in the middle of the fourth century. A somewhat similar instance is that of the woman who brought dough to a bakehouse, and the he-goat of the baker ate up the dough and died.⁵ This also must have happened in Meḥuza, as the case came before Raba. So great was the damage done by goats in the towns, especially the goats that belonged to the butchers, who usually kept many of them till the market day, in the meantime allowing them

¹ Bekorot 3b. ² Ab. Zarah 16a. ³ B.M. 23b. ⁴ B.K. 20a.

⁵ Ibid. 48a.

to roam the streets, that the following proclamation was issued in Pumbadita, it not being certain whether by Rabbah or R. Joseph: 'To the scholars that go up to Palestine and to those that come down to Babylonia, the following is the prevailing law, regarding the goats that belong to the butchers which roam the streets and cause damage; the owners should be warned twice or thrice, and should they take no heed, the animals may be slaughtered and the meat given to the butcher to sell.'¹

Cattle and Sheep. The large cattle, cows and oxen, were kept either for drawing the plough or to be slaughtered for their meat and hides. Thus R. Hisda declared that the most valuable hides come from black oxen, the choicest meat from red oxen, while white oxen are most fitted for ploughing.² The most valuable animals were those that were used for ploughing. This follows from the well-known dispute between Rab and Samuel, with reference to one buying an ox from another which proved to be vicious. The buyer, wanting to retract, pleaded that he bought the ox for ploughing, while the vendor pleaded that he sold the ox to be slaughtered. The explanation is added in the Gemara that it so happened that meat had risen in value, and oxen were as valuable for their meat as for their use in drawing the plough. Rab held that as most people buy oxen for ploughing, the plea of the buyer is accepted, while Samuel disagrees with him. A further explanation is added in the Gemara that the purchaser in question sometimes bought oxen for ploughing and at others for slaughtering.³ The fact that it was found necessary to add that it so happened that the value of an ox for its meat was equal to its value for ploughing, clearly proves that such was not usually the case.

¹ B.K. 23b; see Rashi and Maimonides נזקי טמון v. 1.

² Nazir 31b; Kraus, ii. 114.

³ B.K. 46a and b; B.B. 92a; see Kraus, i. 109, ii. 114-17.

The cow, in addition to providing its owner with milk, was, in preference to the ox, used by him for threshing. Thus in Babylonia, whenever a question in connexion with ploughing occurs, the animal used as an example is the ox חוריר דריא (oxen used for ploughing),¹ whereas in questions concerning threshing the cow is usually given as an example. Thus the question is raised anonymously in the Gemara whether a Jew may tell a heathen to muzzle a cow and then thresh grain with it. Again, the question is asked by R. Sheshet whether one may muzzle a cow while threshing, to prevent it eating a sort of grain that will have a harmful effect upon it.² In this respect Babylonia seems to have differed from Palestine, where the cow was commonly used for ploughing, as Kraus has already observed (ii. 116).

Although, as previously shown, the breeding of live-stock was not carried on on a very large scale in the country, yet there were to be found districts that specialized more in the rearing of live-stock than others. Such a district was that where Mata Meḥasya was situated. Thus R. Judah declared that cuscuta and חור (Pers. and Gr. = young blades of unripe corn) may be plucked by wayfarers, and is not to be considered in the light of robbery. Such may not be done, however, where the owners were particular about it. Upon this Rabina remarked that Mata Meḥasya was a district where the owners were usually particular, for reason, as Rashi truly remarks, that in that town the people specialized in the rearing of animals, which they usually fed on the unripe corn.³ Another such district was the one known as צוואר מֶהֻזָּא, Neck of Meḥuza, a valley close to that town, where the animals were also reared on the unripe grain.⁴ Further, R. Huna, who lived in Sura, specialized in the breeding of animals. Thus R. Joseph speaks of the calves

¹ Shabb. 19b.² B.M. 90a, both questions.³ B.K. 119b.⁴ B.B. 36a; see Rashbam.

belonging to R. Huna. We also read of his sheep for which he built pens. When R. Huna was once asked by R. Ada b. Ahaba under whose charge his small cattle were kept, he replied that they were under the charge of his wife, a proceeding which did not meet with the approval of R. Ada.¹ R. Hamnuna (3rd and 4th cent.) who was a native of Harpania in the extreme south of the country, possessed oxen, some of which once strayed from his home.² Raba, who lived in Mehuza, was the owner of sheep, some of which were once stolen from him.³

Ass. The animal most commonly used for riding and as a beast of burden was the ass. It would hardly be possible to quote all the instances found in the Gemara of this animal being used for these purposes; we will, however, cite a few by way of illustration. Thus there is a Mishnah dealing with the subject as to whether the outfit was usually to be considered included in the sale of an ass or not.⁴ In explanation of this Mishnah 'Ulla (3rd cent.) remarked that the dispute in the Mishnah centres round the question whether we consider that the average ass is used chiefly for riding purposes or for bearing burdens,⁵ which fact is clearly indicative of the uses made of this animal in Babylonia. Again, when the question of helping to unload overladen animals or to set up fallen animals⁶ is discussed in the Gemara, the animal always used as an example is the ass, which fact again clearly points to the ass being the usual beast of burden in Babylonia.⁷ Further, the term חמר, ass-driver, is generally used for the person who transported goods from place to place, and we read that when Rab desired goods to be brought him he gave money to the ass-drivers for the purpose.⁸ Again,

¹ Calves, Shabb. 52a. Sheep in pens, 'Erub. 102a. Wife, B.K. 80a.

² Sanhed. 61a.

³ Ibid. 72b.

⁴ B.B. 78a.

⁵ B.B. 78a; Kraus, ii. 117, note 813.

⁶ Exod. xxiii. 5; Deut. xxii. 4.

⁷ B.M. 32b איניש בתר חמרין אויל.

⁸ Ibid. 73a.

R. Papa (d. 372) when he once could not convey his goods by boats, employed ass-drivers to carry it for him.¹

Besides serving as a beast of burden, the ass was also used for turning the mills to grind corn. This follows from the fact that R. Judah ruled that one may attend to the hoofs of an ass, used for turning the mill, during a festival week.² Again, Abaye also mentioned the family of b. Yohani that was wont to use wild asses for turning their mills.³

It is clear from the words of 'Ulla, quoted above, that the ass was just as commonly used for riding as for burdens. It would hardly be possible to give the names of the scholars mentioned in the Gemara riding asses; a few will be given, however, by way of illustration. Levi b. R. Huna b. Hiyya and Rabbah b. R. Huna (4th cent.) were on a journey together, when the ass on which Levi was riding preceded the ass of Rabbah, because of which the latter felt slighted, this being a sign of lack of respect, but Levi appeased him by explaining that the ass was out of control.⁴ Further, we read that when Abaye saw, in the distance, the ears of the ass on which R. Joseph, his teacher, was riding, he would at once rise out of respect. Abaye (d. 338) too was once riding an ass along the banks of the Nehar Sogya, a canal close to Pumbadita, while his disciples together with R. Mesharshiya were sitting on the other side, and they did not show their respect due to him by rising. On being questioned as to the reason for such behaviour on their part, they replied that they had not been aware of Abaye's presence.⁵ There is no need to enlarge any further on this subject, but suffice it to say that almost any one who could afford it possessed an ass either for riding or carrying burdens or for both.

The best and most expensive species of ass was the kind

¹ Gitt. 73a.

² M. Katan 10b; Kraus, *ibid.*

³ 'Ab. Zarah 16b.

⁴ Shabb. 51b.

⁵ Kidd. 33a.

known as the חמרא לובא.¹ Levi b. Sisi (3rd cent.) once sent money to Hozae (Khuzistan) which is situated to the east of Babylonia, that they should send him a חמרא לובא. They sent him back the money and enclosed barley with it, implying thereby that an ordinary ass will serve the purpose just as well, so long as it is well fed. This must have happened after Levi had migrated from Palestine to Babylonia and settled in Nehardea. Unlike other asses, the חמרא לובא had to be controlled by an iron bit.²

Mule. The mule, too, is frequently mentioned in the Gemara as having been in use in Babylonia, both for riding and for bearing burdens. Thus we read of Maremar b. Hanina (4th cent.) hiring a mule from a person hailing from Hozae, for the purpose of conveying goods for him. The animal, not being well cared for, died, and the owner happened to be present while that happened. The question whether Maremar was to be held responsible for the animal was brought before Raba.³ As an illustration of the homiletical interpretation of the verse, 'They abide this day according to thy judgements for all are thy servants',⁴ the following happening is mentioned to show that when a person is destined to die, the most unlikely event may bring it about. The story was told to Rabbah b. Shilah (4th cent.) that a tall man was once killed while riding a very small young mule. It happened in the following manner: he was riding over a bridge, when the mule grew wild, shied, and threw him into the water.⁵

Camels. The animal known as the ship of the desert,

¹ Kraus, ii. 117, note 819 explains ליברקוס of the Mishnah to be the Lykaonian ass. See 'Aruk Kohut לברקם; cf. Bekor. 5b, and Tamid 32a.

² Shabb. 51.

³ B.M. 97a כורנא fem. כורניא, plur. כורנייתא (Syr. Arab. = mule, Pers. = packhorse).

⁴ Psalm cxix. 91.

⁵ Nedar. 41a גירניא = young mule, Rashi (Arab. = mule), 'Aruk. See Kohut; Kraus, ii. 119.

though not quite so common as the ass, was reared in Babylonia, and was used both for riding and as a beast of burden. The many proverbs in the Gemara dealing with camels is a good indication of the frequency they were met with. That they were used as beasts of burden follows from the proverb mentioned by R. Papa: 'There are many old camels that are laden with the hides of young ones',¹ or from the oft-repeated saying in the Talmud, which was also used in Babylonia: 'The burden is according to the strength of the camel.'²

Two kinds of camels are mentioned by Raba b. R. Ḥanan (4th cent.), the Persian and the Arabian, the species being distinguishable from each other by the thickness of the neck.³ The dromedary was known in Babylonia as the נמלא פרחא, flying camel. Thus Raba said that if two witnesses testified that *A* had murdered *B* in Sura on a certain morning, while two other witnesses testified against the first pair that on the evening of that same day they were together with them in Nehardea, we estimate whether it was possible for the first pair of witnesses to have travelled during the course of the day from Sura to Nehardea, a distance of more than twenty parasangs ('Aruk על), and if that was possible their evidence is accepted; but if not, the evidence of the first pair is not accepted. Upon this the question is raised in the Gemara, 'But such ruling is self-evident?' To this the answer is given that the intention of Raba is to obviate the assumption that the witnesses may have travelled by means of 'flying camels' (dromedaries), and had been able to reach Nehardea by such means.⁴ A similar instance is found when the question is raised how it was possible for the same man to be both

¹ Sanhed. 52a; Kraus, ii. 120.

² Ketub. 67a: 'As people say, &c.', *ibid.* 104a, used by R. Joseph.

³ B.K. 55a נמלא פרסא וגמלא טיעא דהאי אלים קועיה והאי קטין
קועיה Kraus, *ibid.*

⁴ Makkot 5a.

in Nehardea and Sura in one day, and Raba explains that it was possible if he travelled by means of flying camels (dromedaries).¹ From both these instances it is readily seen that dromedaries were not very common in Babylonia, and it was not assumed that a person had travelled by their means where it was possible to assume otherwise.²

Horse. The horse, although met with in Babylonia, was not as common as the animals already dealt with, and was mainly used for riding and for war. King Sapor I once mockingly remarked to Samuel, 'You say that Messiah will come riding on an ass;³ I will send him a well-groomed horse of mine to ride on.' The latter replied, 'Could you provide him with a horse of a thousand colours.'⁴ Equally illustrative is the well-known saying, 'He caused him to ride on two steeds.'⁵ We also read of R. Judah ruling that a horse may be combed during a festival week.⁶ In the Gemara we also find a discussion concerning the way the horse is trained for war.⁷ Every town was supposed to maintain a mounted guard as a means of protection.⁸ R. Asi is mentioned as being advised by Rab not to dwell in a town where no horses were to be found, for the reason, as Rashi rightly explains, that they were a necessity for the proper protection of the town.⁹ The fact that it was found necessary to give such advice clearly indicates that there existed towns in Babylonia where horses could not be found.

Dog. This useful and faithful animal was not missing in Babylonia, and its usefulness is recognized in the saying of Rab to R. Asi, 'Do not dwell in a town where there are no

¹ Yeb. 116a.

² See Tosafot.

³ Zech. ix. 9.

⁴ Sanhed. 98a ברקא (Pers. and Arab. = multicoloured horse) see Kohut ברקא 1; Rashi = well-groomed, also swift horse. חויר Rashi = a hundred in Persian, 'Aruk, Kohut, and Jastrow read הויר (Pers. = a thousand).

⁵ Ketub. 55b; B.B. 152a.

⁶ M. Katan 10b.

⁷ 'Ab Zarah 16a.

⁸ B.B. 8a לפרשאה, see Rashi.

⁹ Pesah 113a.

dogs to bark (where no dogs are to be found)' as they are a necessity for safeguarding the town.¹ The law which prohibits Jews from keeping dogs applied also to Babylonia. However, Jews living in border towns, among which Nehardea was included, were allowed to keep dogs chained by day and loose at night.² The fact that dogs are so frequently mentioned in the Gemara is a strong indication that the prohibition was not generally observed, even in other towns. The following story indicates that the dog was a common animal of the house. A woman once took her bread to a bakehouse to be baked, when the dog at the bakehouse barked at her, which caused her to catch fright. The baker, to allay her fear, said to her that the dog had had his fangs removed, but she replied that his information came too late, as the fright had already affected her unborn child.³ This story is given in the Gemara as a support for the prohibition being observed. Very significant is the anonymous pithy saying in the Gemara, 'If (when about to enter a house) a dog barks at you, you may enter; but if a bitch barks at you (even if you are within the house), go away.'⁴ From an anonymous expression in the Gemara it appears that it was quite common for wealthy women to keep small dogs as pets.⁵

Cats. The cat was also common in Babylonia, being just as essential then as they are now for exterminating mice. In Babylonia they served the additional useful purpose of killing snakes.⁶ Although a case is recorded, in the days of Rab, of a cat injuring a child, it is clear from what is discussed in the Gemara concerning this, that the average breed of cats

¹ Ibid. ² B.K. 83a; see *J.E.* 'Dog'; Kraus, ii. 120-1.

³ Shabb. 63b; B.K. 83a.

⁴ 'Erub. 86a; Kraus, *ibid.*

⁵ Ketub. 61b קטנייתא נורייתא see 'Aruk Kohut נר גוריא (גור) Syr. and Arab. = small dog).

⁶ Pesah. 112b, saying of R. Papa: 'cats eat snakes'. One should not enter, in the dark, a house that has no cat, for fear of snakes.

was not dangerous.¹ We also read of a cat being borrowed and it died from overfeeding itself with too many mice. The question whether the borrower was liable to pay for the cat was brought before R. Ashi.² From the foregoing it seems clear that cats possessed a commercial value. This follows even more clearly from the ruling in the Gemara that one may not give to a cat belonging to another water that had been left uncovered,³ because the owner may want to sell the cat, and by drinking water left uncovered, which may have become poisoned from a snake, the cat would thereby lose some of its value.⁴

¹ B.K. 80a and b; see Gemara, Kraus, ii. 122.

² B.M. 97a; Kraus, *ibid.*

³ Water left uncovered may not be drunk for fear lest a snake had drunk of it, but is not fatal to cats, as cats are accustomed to eat snakes. See 'Ab Zarah 30b, Rashi.

⁴ 'Ab. Zarah, *ibid.*

VIII

DOMESTIC BIRDS, BEE-CULTURE, FISHING, FOWLING, AND HUNTING

Poultry. The most common domestic birds at that time were the same as those of the present time, namely chickens, ducks, and geese. There is no necessity to quote the many references in the Gemara. In proof of this, suffice it to say that whenever there is need to refer to domestic birds, geese and chickens are always mentioned. Thus Abaye ruled that geese and chickens are true domestic birds, the catching of which on a festival day is not considered capture, and is therefore not prohibited, in contradistinction to other birds whose capture is forbidden.¹

Chickens were extensively reared, both for the production of eggs, as stated by R. Nahman, and because of the food value of their flesh. A certain species of chickens mentioned by Amemar was regarded by him to be the choicest of all fowl.² The fact that the term egg, mentioned innumeral times in the Gemara, refers exclusively to the chicken's egg clearly shows how universal was the breeding of that bird.³ Geese *אָנז* and ducks *בֵּר אָנז*, which are mentioned almost as frequently as chickens, were kept chiefly because of the food value of their flesh but not so much for their eggs. It is, I think, neither necessary nor hardly possible to cite all the examples found in the Gemara concerning these birds. The following will suffice. R. Shishbi (end 4th cent.) declared that for ritual purposes the Babylonian geese are to be

¹ Beza 24a; see Gemara.

² Shabb. 19b; Amemar, B.M. 86b *זָגְתָּהּ אוֹכְמָתָהּ וכו'* (Syr. = clucking hen): see Rashi, who gives two readings: *פִּטְנִיתָהּ* = fattened chicken, with a large belly. See various readings in 'Aruk, Kohut, also Jastrow.

³ See Shabb. 80b; Beza 2b, 6a and b, 7a.

considered as water-fowl.¹ Roasted duck was very popular and is frequently mentioned. We will cite a few cases. Once, while on a visit to the Exilarch's house, Raba was feasted on roast duck. On another occasion he is mentioned enjoining his servant to roast a duck for him, and warning him to take good care not to have it spoilt by the smoke in the process.² From an expression of R. Huna b. Judah (4th cent.) it appears that the average value of a goose was one zuz. Thus he is mentioned as saying that when a goose could be bought for a zuz, its lungs when dressed with spices would be worth four zuz.³

Pigeons. Breeding pigeons was also carried on to a very large extent by the Jews of Babylonia. So great was the number of privately owned pigeon-cotes around each town that in Babylonia, just as in Palestine, fowlers were prohibited from snaring pigeons within the distance of thirty Ris (Ris = two-fifteenths of two thousand cubits = $266\frac{2}{3}$ cubits) from a town. There is a Mishnaic law which prohibits the setting up of pigeon-cotes within the distance of fifty cubits from the town, the reason being that pigeons are liable to cause damage to the gardens by eating up the seed. Abaye, in explanation of this, says that the amount of food a pigeon will find within a space of fifty cubits is usually sufficient to satisfy the hunger of the bird.⁴ From the foregoing it is clear that in Babylonia also the prohibition against setting up of cotes near towns was observed. It was therefore customary for many private owners to set up their cotes near those of each other, some distance from the town, and these were known as *ישוב שובבין* 'settlements of cotes', and Raba said that where such settlements existed fowlers were forbidden to snare pigeons throughout the district.⁵ From an expression

¹ Hull. 56b; see also B.K. 55a, 92b.

² Pesah. 74b; Bezaḥ 33b. See Kraus, i. 109, ii. 137.

³ Hull. 49a.

⁴ B.B. 23a; Kraus, ii. 140, notes 976-8.

⁵ Ibid.; see Gemara; Kraus, ii. 139.

of R. Joseph on the same subject it appears that it was also a common thing to set up cotes among the vineyards.¹

The large number of different species of pigeons mentioned in the Gemara is a sufficient indication of their extensive breeding. Thus Rabbah declared in the name of R. Judah that the pigeons known as חסיל were a species of יונה (pigeons), while the kinds known as ראציפי ('Aruk reads רייציפי) and the כופשני צוצייני were species of תורין (turtle-doves). The latter kind was also known as תורין דרחבה (Rashi interprets this as being the name of the bird, while others explain it as the doves of the market-place or of open spaces). Such is declared by R. Judah in the name of Rab.² The son of Mar b. Rabina (5th cent.) mentions yet another species by the name of צילצלא ('Aruk צוצלא Arab. = turtle-dove), a small species of the dove family. Still another species is mentioned anonymously in the Gemara, the חומתא (Arab. = wood-pigeon).³

As already mentioned, the domestic pigeons were kept in cotes שוכך; they were also kept in the attic portions of houses יוני עלייה. These birds flew about at will during the day and returned to their cotes at night. It seems clear from an anonymous expression in the Gemara that, from a ritual point of view, even these pigeons were not considered domesticated in the sense that chickens and geese were so considered.⁴ The laws regulating the sales of broods of pigeons, as explained in the Gemara by R. Kahana (3rd cent.), plainly indicate that the Jews in Babylonia were well acquainted with the nature of these birds and skilful in the

¹ B.B. *ibid.* and 24a שכל של כרמים.

² Hull. 62a and b כופשני (Pers. = a species of turtle-dove or from capsana, Kohut כבשן and כפשן). צוצייני accordingly means possessing a tuft of feathers. See *J.E.* 'Dove'; Kraus, ii. 138.

³ Gitt. 69b; *J.E.* 'Dove'.

⁴ Beza 24a: 'Do not יוני עלייה and יוני שוכך return to their cotes at night? Although they return at night the owner is not obliged to provide food for them.' See also Shabb. 155b.

breeding of them.¹ Pigeons flew about wild in great numbers, and it is clear from discussions in the Gemara that a large percentage of the pigeons found in the cotes were recruited from the birds that flew about ownerless. The question is therefore debated in the Gemara whether the law of sending away the mother bird and keeping the young² applied also to the pigeons found in the cotes.³ Further, it is related of Levi b. Simon (3rd cent.) that he sold the broods of his cote to R. Judah, and Samuel is mentioned advising the latter as to how he should act in order that the birds should become legally his. The difficulty in the case was that, as the birds had only just made their nest in the cote and were not yet legally the property of the vendor, some act had therefore to be performed through which the pigeons first became legally the property of the vendor, before being transferred to the possession of R. Judah.⁴ From the foregoing it is clear that it was quite common for people to set up cotes with the intention of their becoming filled with pigeons that flew about wild, making their nests in them.

Pigeons were chiefly reared because of their value as food. Thus Rab was accustomed to eat young pigeons after his meals as dessert,⁵ and it is only natural to assume that he was not the only one with such tastes. Pigeons for racing purposes were also reared, and pigeon racing seems to have been a form of sport and of gambling in Babylonia as well as in Palestine. Thus *מפריחו יונים* is mentioned as belonging to the class of people whose evidence is not accepted. Such is the ruling of a Mishnah, and this is interpreted, in Babylonia, as referring to such people as are in the habit of

¹ B.B. 80a; Kraus, ii. 139.

² Deut. xxii. 6-7.

³ See discussion B.M. 102a and Hull. 141b. See Bezaḥ 10b ראמר אביי ר' זאב and Rashi *ad locum*. ⁴ Hull. 141b, 142a; see Gemara and Rashi.

⁵ Berak. 47a; Pesah. 119b. See Hull. 112a, the young pigeon that fell into the כמותה = כמותה.

laying wagers as to the swiftness of their respective birds. Whilst in the course of the race, the owners of the respective birds were accustomed to urge them on in their flight by a series of noises such as clapping, and the expression was that victory lay not so much in the swiftness of the bird as in the skilful clapping of the owner.¹

Bee-culture. The products of the beehive being both useful and valuable commodities, it is only natural that apiculture was an industry which engaged the attention of people in Babylonia. That honey was used in large quantities in the country follows from the numerous preparations of foods and medicines, mentioned in the Gemara, of which honey was an important ingredient. To cite only one of them, Raba declared that the Rihata (a dish composed of flour, oil, and honey) of the villagers was different from that of the townspeople, as, for example, of a town like Meḥuza, in that the Rihata of the former contained more flour, while that of the latter contained more honey. From a ritual point of view, the formal benediction that was to be recited over Rihata was different in the towns from that in the villages.² Wax, too, which from a commercial point of view is to be understood, according to the expression in the Gemara, as that which remains when the honey is removed,³ was a common article of general use and naturally of commerce. This follows from the frequent mention of the קירא (from קיר Gr. and Lat. = wax, Pers., Arab., and Syr. = pitch), the wax merchant, and the frequent mention of its use either for lighting, medicinal, or other purposes.

It is self-evident that to meet the large demand for these commodities bee-culture had to be carried on very extensively. The explanation of R. Judah in the name of Samuel,

¹ Sanhed. 25a and b; see Gemara.

² Berak. 37b, also 36b; see 'Aruk Kohut דבש for many other examples.

³ Shabb. 20b פסולתא דדובשא.

on the Mishnah dealing with rendering bees impotent, that this is effected by giving them mustard leaves to eat, after which they would concentrate on the making of honey, proves that the Jews in Babylonia were skilled in apiculture.¹ We also learn, at the same time, that the Mishnaic regulations concerning the sales of seasonal swarms of bees and the sales of the output of the hives—honey and wax—were also kept in Babylonia, and that there too the buyer was obliged to leave at least two honeycombs as food for the bees. Such follows from the words of Abaye in explanation of the Mishnah.² The anonymous discussion in the Gemara, with reference to the Mishnaic law which forbids the cultivation of mustard in fields adjoining those where beehives are kept, and the anonymous explanation given there that bees cause no appreciable damage to the mustard, but that the offender in the case is the owner of the mustard field, because the sharp taste left in the mouths of the bees after eating the mustard leaves causes them to consume the honey in the hives, is an indication that this law was also observed in Babylonia.³ It is clear from the fact that a swarm of bees was not considered biblically to be in the legal possession of its owner, but only because of a Rabbinical enactment that wild bees abounded in large numbers, and that it was those bees that filled the hives to a large extent.⁴ Sometimes a swarm of bees would suddenly leave the hive of one person and settle on the property of another. The conflicting claims of ownership and the difficulties experienced in identifying the original owners was a frequent cause of litigation.⁵

Fishing. Babylonia, a country abounding in so many

¹ B.B. 80a; Kraus, ii. 136.

² Ibid.

³ B.B. 18a and b.

⁴ B.K. 114b הוא דקנין דרבנן anonymous expression in the Gemara. See Rashi, *ad locum*, and Gitt. 59b, 60a; also Hull. 141b.

⁵ B.K. *ibid.* R. Judah in name of Samuel, 'If the owner was running in pursuit of the swarm'.

rivers, canals, lakes, and ponds (see Chap. I), was certainly not lacking in fish. Ibn Rusta, writing in the tenth century, describing the southern part of Babylonia says: 'The swamps were covered with reeds, and their waters abounded with fish, which were caught, salted, and exported.'¹ That this was also the case during the period under review, not only for the south of Babylonia, but for the whole of the country, is evident from many instances in the Gemara. So well stocked with fish were the waters of Babylonia that when it happened that a river, canal, or even a small water-channel became dried up, fish in large quantities were usually left lying on the beds. Thus we read that the waters flowing through the Badita Labai, a canal which issued from the right arm of the Euphrates and flowed in a southerly direction until it was joined by the Nars Canal, were caused to empty themselves into another channel, and on the canal bed which was left dry a large number of fish was found to have been left behind. Many people came to collect the fish, and as the amount of fish collected by them was more than they could manage to eat while they were still fresh, Raba allowed the people to salt the remainder, in spite of the fact that this happened during a festival week, and the salted fish would remain until after the festival, a procedure which would have been forbidden under ordinary circumstances.² Again, Rabbah b. R. Huna in the name of Rab ruled that if before the commencement of a festival the entrance to a small water-channel was stopped up, in a manner that enabled the water to flow freely into the channel, but prevented fish from entering, and on the morrow fish were found in the channel, it was permissible to eat them during the festival, since the fish must have been in the

¹ *J.R.A.S.*, 1895, p. 298 (Ibn Rusta, 94).

² M. Katan 112; see Rashi on this, also 'Aruk, Kohut, and Obermeyer,

channel before the commencement of the festival.¹ We also read that after the subsidence of the waters of a lake or canal that had overflowed its banks, an event of not unfrequent occurrence in Babylonia, fish in large quantities were usually left on the banks. From R. Papa we further learn that people were sometimes employed to collect the fish left by the floods.²

The foregoing examples are sufficiently illustrative of the abundance of fish in the waters of Babylonia. In spite of this, however, it seems that the amount of fish caught in the rivers and canals of Babylonia was not sufficient in quantity to supply the demands of the teeming population of the country for this article of food. It was therefore found necessary to breed fish in special ponds. There are many examples of the existence of ponds for fish-breeding in Babylonia. Thus the question is raised anonymously in the Gemara whether the fish of a breeding-pond belonging to a wife is to be considered usufruct, and as such her husband would be entitled to them, or whether the fish is to be considered capital, and as such the husband would not be entitled to them.³ In the end of the second century we learn that the fish-ponds of the town of Birta Desatia, which lay close to Baghdad,⁴ became filled with fish, and the townspeople went on a Sabbath and caught the fish, for which action they were put under the ban of excommunication by R. Ahi b. Yashiah.⁵ Rab is also mentioned as having met a school teacher, in a certain town in Babylonia, who was the owner of fish-ponds. In order to attract unwilling children to come and be taught, the teacher was in the habit of preparing fish dishes for them.⁶ What has been adduced is

¹ Bezah 25a; see Rashi.

² B.M. 12b כָּנֹן שִׁשְׁבְּרוּ . . . דְּאִפִּי אִנְמָא בְּכוּרִי Kraus, ii. 146, note 1011.

³ Ketub. 79a.

⁴ Obermeyer, 73, note 2.

⁵ Kidd. 72a; Kraus, i. 110-12.

⁶ Ta'anit 24a.

sufficient indication of the prevalence of fish-ponds פִּירָא דְכוּוּרִי in Babylonia, and that they were usually well stocked with fish.

Taking into account the abundance of fish in the country, and also considering the fact that fish has at all times been a favourite article of food among Jews, it should occasion no surprise to learn that there were Jews who adopted fishing as a profession. In the days of Rab there lived a well-known fisherman by name Adda the fisherman, who supplied the former with many interesting pieces of information in connexion with fish.¹ In another work dealing with the economic relations between the Jewish and non-Jewish sections of the inhabitants we shall have occasion to enlarge on the Gentile fishermen who supplied the Jews with fish. The fishermen being many in number, it was found necessary to regulate the rights of fishing. Thus, Rabbah b. R. Huna (4th cent.) while in the course of interpreting a Baraita ruled that when a fisherman had already thrown his line with the intention of catching certain fish that had already become attracted by his bait, other fishermen had no right to throw their lines within a parasang from the first.²

For catching fish various kinds of nets, traps, and lines were used. Thus there is mentioned the nets known by the name of אוּלִי (from Syr. and Arab. = spinning) and a simpler kind of nets called אוּהָרִי (Arab. = to plait), the former being of a complicated nature, requiring the work of a skilled man, while the latter was a simple kind and could be made by any one.³ Other kinds mentioned were לָחִי and קִיקְרִי, the former being the fishing line, the latter a sort of trap.⁴ A common method of catching fish was by constructing a pit near a river, canal, or pond, which pit

¹ M. Katan 11a.

² B.B. 21b; Kraus, ii. 145.

³ M. Katan 11a מַעֲשֵׂה אוֹמֵן, מַעֲשֵׂה הַדְּיוּט, Gitt. 60b, 61a.

⁴ Shabb. 18a; see Rashi, Gitt. 61a. See קָקֵר 'Aruk; Kraus, ii. 144-6.

had both an inlet and an outlet, but was so constructed that the water containing fish flowed into it freely, whilst the outlet allowed the water only to flow out and the fish remained within the pit. Thus Raba ruled that during the festival week, if one made an opening to allow the inflow of water into a pit in his grounds, if his intentions were the catching of fish, by his action he has not profaned the festival week; but if his intentions were that the field may be watered thereby, his act is reprehensible. Upon this the question is raised: 'How is it possible to determine what his intentions were?' To which the answer is given that if he made provision both for an inflow and for an outflow of water that is proof that the intentions in his mind were the catching of fish; but if he made no provision for the outflow of water, that shows that his intentions were the watering of the field.¹

Hand in hand with the fishing industry there must of necessity exist the auxiliary industry of manufacturing the nets, lines, and traps required by the fishermen, and this too engaged the attention of the Jews. A well-known scholar engaged in this industry was R. Hiyya b. Ashi (3rd cent.), who once sought the opinion of Rab as to which kind of nets it was ritually permissible for him to make during a festival week.²

Fowling and Hunting. As already mentioned in a previous chapter, the country abounded in multitudes of wild fowl; it should therefore occasion no surprise that quite a large number of Jews made their living by fowling. Wild animals, specially of deer species, also abounded, and trappers of animals were not unfrequently met with. It is readily conceived that trappers were usually also fowlers. There are many examples in the Gemara of deer being trapped and

¹ M. Katan 10b; see Rashi, also B.B. 54a—same said by Samuel.

² M. Katan 11a.

used as food. To cite but one example, there is the case of a deer that was caught on the first day of a festival and slaughtered for the Exilarch on the second day. R. Nahman, R. Hisda, and R. Sheshet were the guests of the Exilarch for the meal at which the deer was served, and while the former two scholars ate of its meat, the latter because of some ritual scruples abstained from doing so.¹

Men of learning were found who adopted fowling and trapping as a profession. One of the most famous was a disciple of Samuel who went by the name of Tabut the trapper. Another disciple of Samuel who was a trapper was Tabi, who is once mentioned as citing his teacher's ruling on a matter of ritual law. Whether Tabi was identical with the previously mentioned Tabut is not clear.² In the days of R. Abba (3rd and 4th cent.) there is mention of a trapper called Papa b. Abba.³ In the previous century, in the town of Nisibis, which lies in northern Mesopotamia, we read that Levi b. Sisi was once the guest of a trapper called Joseph, who regaled his guest with boiled peacocks.⁴

As indicated by the term רִישָׁנָא trapper (Syr. = net or trap) these men usually caught their prey by means of various kinds of traps, nets, and snares. Thus in this connexion we also find that, among others, the net known as אִילָא (Arab. and Syr. = spinning) was used. Some of these nets, is an anonymous statement made in the Gemara, have the knots close together, while in others they are far apart.⁵ The fowler's rod with the board on top smeared over with glue, for the catching of birds, is also mentioned.⁶ There is a trap

¹ 'Erub. 39b.

² Shabb. 17b top, Tabi, *ibid.* 146b, and Ta'anit 10a. Tabut: see Rashi, *ad loca*, also 'Aruk רִישָׁנָא 1, who differs from Rashi.

³ Hull. 54a.

⁴ Shabb. 130a. Also mentioned in Hull. 54a in connexion with R. Judah b. Batera. See Halevy, ii. 686; Kraus, ii. 143 for fowling and trapping.

⁵ Hull. 51b. ⁶ Hull. 52a דְּבִיק cf. Shabb. 80a שֶׁל צִידִין . . . דְּבִק כְּרִי.

called שוּתָא (Syr. שוּחַתָּא = pit from שוּחַ) mentioned in connexion with a dispute between two men as to ownership.¹ This trap must have been in the form of a framework or box, as follows from the story of R. Kahana, who once came to the academy and found all the seats occupied, and Rab advised that a שוּתָא should be brought for him to sit on.²

It was not very common for the Jewish hunters to shoot animals and birds, as it would not have turned out profitable for them to do so, since animals and birds not killed in the proper ritual manner were ritually unfit for Jewish consumption. There were not wanting, however, people who were skilled archers among the Jews in Babylonia. Thus we read that Raba once ritually examined an arrow for R. Yona b. Tahalifa, who taking aim at a bird in flight killed it in the proper ritual manner; an extraordinary feat, barely conceivable to any one who is acquainted with the methods of ritual slaughter.³

From the foregoing it appears that the animals and birds chiefly hunted were those that were ritually fit for Jewish consumption, of which both the flesh and hides were of commercial value. Even the skins of birds could be made into parchment and used for writing upon. Thus R. Huna ruled that bird-skins could be used for the making of scrolls for the phylacteries. Moreover, even skins of fishes were made into parchment and used for writing upon. Thus the question was put by Mar b. Rabina to R. Nahman b. Isaac (4th cent.) whether the skins of fishes could be used for the scrolls of phylacteries.⁴

Fur being an article of commercial value in Babylonia, there is no doubt that fur-bearing animals were also an object of pursuit to the hunters and trappers. We even learn from a statement of Rabina that the fur of cats had

¹ B.K. 117a; see 'Aruk Kohut.

² Shabb. 124b.

³ Hull. 30b רבא ברק ליה נירא.

⁴ Shabb. 108a; Kraus, ii. 268.

a commercial value.¹ Hunting as a sport does not seem to have been popular among the Jews in Babylonia, and Jews are not found mentioned in the Gemara as indulging in it, the reason for this being, no doubt, because hunting, by causing unnecessary pain to animals, is reprehensible according to Jewish conception, while, further, it is considered as 'Walking in the way of the sinners'.² Although there is no doubt that some Jews may not have acted according to this conception and joined in the chase of wild beasts and birds, since we find that the falconer's horse is distinctly mentioned in the Gemara,³ it is extremely doubtful that such sport was generally indulged in by Jews. On the other hand, to exterminate beasts that were a danger to the lives of human beings was considered a meritorious act.⁴

¹ B.K. 80b לעורו, אמר רבינא. ² 'Ab. Zarah 18b, Rashi, and 'Aruk.

³ Shabb. 94a נייארן ('Aruk reads באז'אר Pers. = falconing), cf. Sanhed. 95a.

⁴ See B.K. 80b; Shabb. 107a.

IX

MILLING, BAKING, BUTCHERING

Milling. With agriculture there must necessarily have existed the auxiliary industries which prepare that raised by agriculture for the use of the people. The most important of these is of course the grinding of corn to make flour. From various references in the Gemara we learn that in Babylonia, just as in Palestine, houses were usually provided with hand-mills for grinding corn, or with the necessary accommodation for them. That such was the case in Palestine is clear from the ruling of the Mishnah, that the nether millstone, or according to some commentaries, the framework underneath the millstone, was in ordinary circumstances understood to be included in the sale of a house.¹ For Babylonia we find R. Joseph speaking of the איטרובלין ('Aruk איסטרוביל = either the nether millstone or receptacle of the flour) in a manner indicating that it was a common article of furniture in every home. Further, we read that R. Nehemiah b. R. Joseph (4th cent.) once sent a message to Rabbah b. R. Huna Zuta of Nehardea, concerning a woman claimant: 'When this woman comes before you, you should allow her claim to a tenth of her father's property, even if it has to be taken from the איטרובלי of the defendants.'² The many questions raised in the Gemara in connexion with preparing millstones for grinding during a festival week indicates clearly that they were constantly in demand and universally used. Thus R. Huna once heard, during a festival week, a man working at roughening his grindstones, and he expressed his disapproval of such action. The fourth-century R. Hama, who lived in Nehardea, however, disagreed with R. Huna in this. Again, R. Judah

¹ B.B. 65a, 66b, 67a.

² B.B. 66b and 69a, both cases.

is mentioned as allowing people to set up millstones, to build mills, and to build the wooden framework which served as a foundation for the millstones, during a festival week.¹ Abaye, too, is mentioned as speaking of the hand-mill used for grinding corn, and this again is also anonymously discussed in the Gemara.² In some houses the mill stood in a special chamber which was known as the grinding room. This is evidenced by the story concerning the millstones of Abaye which stood in a special room. It once happened that, on a festival day, the rain came through a leak in the roof on to the millstones. Abaye, being diffident about moving the stones on a festival day, allowed the rain to drop on them the whole day, with the result that they gradually became dissolved by the water.³ Incidentally we learn from this that millstones in Babylonia were very often made of clay, for there is no need to suppose that Abaye's mill differed in any way from the mills generally in use.

Hand-mills being of such general use in Babylonia, it naturally follows that a great deal of corn was ground at home and, as is usual under such conditions, this was done by the womenfolk of the household. Such follows from the following discussion in the Gemara. There is a Mishnah teaching that to grind corn is one of the things which a husband can expect his wife to do, among ordinary people. Upon this the objection is raised in the Gemara, 'But the corn is ground by itself.' (Rashi corn was usually ground in a water-mill and therefore did not stand in need of the human hand.) To this the answer is given that the intention of the Mishnah is to teach that the wife can be expected to prepare the corn for the mill to grind. A second answer is given that where the hand-mill is in use, the woman

¹ M. Katan 10a and b.

² Pesah 11a and Ketub. 59b; Kraus, i. 96, note 280; Funk, ii. 35.

³ Bezah 36b בי ריחא דאביי.

is expected to grind the corn.¹ From the foregoing discussion it clearly emerges that water-mills were very common in Babylonia and that more corn was ground by water-mills than by hand-mills. Such also follows from the question put by Abaye to Rabbah: 'But what change from the ordinary method can be effected with grinding?' To which the latter replied that the change from the ordinary method is effected when instead of the corn being ground with a water-mill it is ground with a hand-mill.² This discussion, it must be borne in mind, is concerned with the method corn sold in the market had been ground, and it clearly follows that the ordinary flour bought and sold was not ground with hand-mills, but, as Rashi truly maintains, by water-mills. Another indication of the existence of water-mills in Babylonia is the dispute between Rabbah and R. Joseph as to the reason why it was forbidden, before the commencement of the Sabbath, to fill a water-mill with grain, and allow the corn to be ground, during the Sabbath, by the automatic working of the mill.³

In addition to the hand-mill and water-mill there was a third kind of mill that was worked by means of asses. Thus we read that R. Judah allowed during a festival week the cutting of the hoofs of asses used for turning mills for grinding corn, while we further read that the family of b. Yohani (4th cent.) used wild asses for turning their mills.⁴ These mills were generally of a light character, as follows from a discussion in the Gemara. Thus the Mishnah teaches that one must remove his mill from the wall of his neighbour the distance of three handbreadths as measured from the nether millstone, which is equivalent to four when measured from the upper millstone. The question is then raised in the Gemara as to the reason for this regulation, and the explana-

¹ Ketub. 59b? טוחנות ס"ד.

² Pesah. 11a טחינה והרקרה מא"ל Kraus, i. 96, note 271. ³ Shabb. 18a.

⁴ M. Katan 10b; b. Yohani 'Ab. Zarah 16b; Kraus, i. 97, note 286.

tion is given that the vibration set up by the mill is injurious to the wall. Upon this the objection is raised that we had been taught in a Baraita that with a mill which is turned by asses the distance he is obliged to remove it from the wall is three handbreadths when measured from the framework, which is equivalent to four measured from the hopper, and the explanation is added in the Gemara that mills turned by asses set up no vibration. (Rashi—because such mills are of a light character.)¹

The water-mills were naturally of larger dimensions, and these were the mills no doubt used by the professional miller who ground the corn for the farmers which was to be sold in the market. Such is clear from what has already been adduced. It was also a common practice for a person to set up a mill in an alley or street, and earn his livelihood by grinding corn for his neighbours. Thus R. Huna ruled that if a dweller of an alley set up a mill in the alley for such a purpose, he can rightly object to a dweller of a different alley setting up a mill in the same alley as the first for the purpose of grinding corn.² It is readily understood that such a ruling would not have been made were it not a common thing for people to set up mills to grind the corn of the householders. There were also to be found people who made their living by hiring their mills to others for the grinding of their corn. Concerning such a means of gaining a livelihood, the remark is made in the Gemara that it entailed much trouble while the reward was small.³ An interesting story which is illustrative of some of the facts stated above is the following. A man possessed a mill which he let to another for a certain period. As payment, the hirer ground the corn of the owner for him. The owner subsequently accumulated

¹ B.B. 20b; see 'Aruk Kohut טר 5.

² B.B. 21b; see Rashi, Kraus, i. 96.

³ Pesah. 50b שֶׁכֶּר אִשְׁתּוֹ וְרַחֲיִים, אֲנֵרְתָּא.

a little capital and bought for his own use a mill that was turned by means of asses, consequently he no longer stood in need of the hirer grinding corn for him. He therefore asked the hirer that, till the end of the period, he should pay a money rental for the use of the mill. The case came before R. 'Avina (end of the 4th cent.), who ruled that if the hirer could possibly find customers for whom to grind corn and receive payment in money, then he is obliged to pay a money rental, but if it is impossible for him to do so, then the original agreement holds, and the owner can seek customers for whom to grind corn, while his own corn will be ground by the hirer.¹

From what has just been written it would appear that grinding one's own corn was not so general as might be supposed. The well-to-do classes most likely bought flour in the market, while ordinary householders bought corn and either ground it themselves or had it ground for them by the owners of mills, while the poor not only ground their own corn, but some of them made their living by grinding corn for others. Again, people could be found who eked out a miserable existence by hiring their mills to others with which to grind their corn.

It was usual to moisten the grain before grinding, so that the flour should be clean and white. R. Huna used to have his corn washed before grinding, even when the flour was needed for the making of Passover cakes. Such was also the custom of Rabbah b. Abin (3rd cent.). Again, R. Nahman actually objected to using flour from grain that had not been moistened before grinding, even for the making of Passover cakes. Raba even went a step farther, and declared that it was a meritorious act to moisten grain before grinding, when the flour was to be used for the making of Passover cakes.² From the foregoing it is clear, that during the rest

¹ Ketub. 103a.

² Pesah. 40a.

of the year, when moistening grain could not, in any way, become an infringement of the ritual, as could happen during the Passover, grain was certainly moistened before grinding. Grain, however, was only moistened before grinding for the use of the townspeople; the villagers did not moisten their grain before grinding. Such follows from an anonymous statement in the Gemara.¹

Bakers. From what is said in the Gemara in connexion with the subject of baking, it is clear that most of the baking was done at home, naturally by the womenfolk, in the various kinds of ovens then in use.² There are numerous references both direct and indirect to be found in the Gemara to this effect. It will, however, suffice if we quote but a few of them. The wife of R. Joseph used to prepare the flour and do the baking herself, even on a festival day. Again, no less a person than the wife of R. Ashi, who was a very wealthy man, did all the preparations and baking herself even on a festival day.³ We also read of the woman who brought her dough to a neighbour's house to bake in his oven, when the neighbour's goat ate up the dough. Another such case was that of the woman who brought her bread to bake in a neighbour's house, when the dog of the house barked at her and caused her to miscarry.⁴

Not all the baking was done by the housewives, however; there were also to be found quite a large number of professional bakers. Thus Abaye speaks of the oven used by the bakers, which was naturally larger in size than that of the householders.⁵ Baker's bread could easily be distinguished from householder's bread, since the latter was usually larger in size and the loaves varied in form according to each

¹ Ibid. משום דלא לחתי. ² Pesah. 46b and numerous other instances.

³ Bezaḥ 29b; see Kraus, i. 92-3.

⁴ B.K. 48a, 83a; Shabb. 63b.

⁵ B.B. 20b. Our ovens חנוך are like the stoves of the baker. The oven of the baker was larger still, Kraus, *ibid.*

household. Such follows from some anonymous statements made in the Gemara.¹ There were also to be found people who dealt in bread פלטר (Gr. = shopkeeper) used in the Talmud exclusively for bread merchants. The bread dealer usually obtains his supplies from two or three different people, is the saying of Abaye.² Although bread baked by heathens was ritually forbidden to Jews, yet the bread bought from a heathen dealer may be eaten when the Jewish bread was not to be obtained. Such is the ruling of R. Helbo (3rd cent.).³ Quite a common practice was for people who possessed grain or flour to enter into partnership with a baker, the latter undertaking to bake and sell the bread. In some districts it was customary to supply the baker with fuel, while in others it was not. It is self-evident that, in the latter case, the baker usually took a larger share of the profits.⁴ In addition to baking various kinds of bread, bakers gave their attention to the making of many different kinds of cakes and confectionery.⁵

Butchering. As is readily understood, the butchering trade was one in which many Jews were engaged. For the slaughtering of animals and birds, a skilled ritual slaughterer is required, and in Babylonia a professional slaughterer was often employed טבח אומן, but in a very large number of cases the butcher himself was skilled, and acted as his own ritual slaughterer. This is evident from the fact that the term טבח (Heb. and Syr. = to slaughter) is used indiscriminately both for butcher and ritual slaughterer. Thus R. Judah

¹ 'Erub. 81a הא בחלת נחתום, הא בחלת בעל הבית. See Rashi, also B.M. 23a רפתא דאינש אינש הוא Kraus, *ibid.*

² B.M. 56a פלטר מתרי חלת גברי זבין.

³ 'Ab. Zarah 35b; Kraus, i. 93.

⁴ Ketub. 64b; see Gemara באתרא דיהיב ציבי; cf. Kraus, i. 85, note 117.

⁵ Berak. 36, 37; Pesah. 35a, 37a; also B.B. 13b (the woman who was a skilled cook and baker); also Nedar. 50b; for kinds of bread, see Kraus, i. 103, notes 398, 399a; cakes, &c., *ibid.* i. 105-6.

in the name of Rab, declared that a טבח must possess at least three knives: one for slaughtering, one with which to cut the meat, and a third to be used for cutting away the ritually forbidden fat (see Levit. vii. 23-5). R. Judah further declared that a Taboh טבח must have at least two vessels containing water: one in which to wash the meat, and the other in which the ritually forbidden fat should be washed.¹ Again, R. Huna ruled that if a טבחה Tabaha failed to show his slaughtering knife to a scholar for examination, to see whether it was ritually fit, he should be placed under the ban of excommunication. Such a punishment was inflicted only if, after examination, the knife proved to be ritually fit; but if the knife was found not to be ritually fit, then a heavier punishment was given him: the טבח was deprived of the right of carrying on his trade, and the meat that he sold was declared to be ritually unfit for Jewish consumption, such is the observation of Raba (d. 352). Rabina (end of the 4th and beginning of the 5th cent.), went a step farther, and declared that the meat should be spoilt and made unfit for human consumption, the butcher thereby being even deprived of the right of selling the meat to non-Jews. In connexion with this, the following story is cited. A butcher-slaughterer once failed to show his knife to Raba b. Ḥanina (4th cent.); for this he was placed by him under excommunication, deprived of the right of carrying on his trade, and his meat was proclaimed to be ritually unfit. It happened that Mar Zutra and R. Ashi were staying in the town at the time and Raba b. Ḥanina asked them to investigate the case thoroughly, as the butcher-slaughterer was the father of a family and the punishment meted out to him would undoubtedly bring grave economic consequences upon him and his family. R. Ashi therefore went and examined the slaughtering knife, and finding it to have been in perfect

¹ Hull. 8b שלשה סכינים וכו'.

order, he allowed the butcher to be reinstated and his meat was declared to be ritually fit.¹

From the foregoing it is evident that in Babylonia, during the Talmudic period, in the majority of cases the butcher acted as his own ritual slaughterer. It is self-evident that under such a system it was of extreme necessity to keep the butchers under constant and strictest supervision that they should not abuse the grave responsibilities and trust placed in their hands. It was therefore enacted that the butcher before slaughtering should show the slaughtering knife to the scholar of the town. The severe punishment meted out to the butcher for failing to do so, and, in cases where the knife was not found to be ritually in order, the terrible economic punishment that followed, was a sufficient deterrent to such abuses. In the course of time it was found that the responsibilities were too heavy for all of them to be left in the hands of the butchers, and even the constant supervision and the severe punishment did not prove a sufficient safeguard. There gradually grew up, therefore, among Jews a professional class of men, properly trained and highly skilled, who became known as שחטים ritual slaughterers, into whose hands were placed the responsibility of slaughtering animals and declaring them ritually fit. Thus R. Asher b. Jehiel, writing at the end of the thirteenth and the beginning of the fourteenth centuries, says: 'Nowadays it is not customary to show the knife to the scholar; for in their days the butchers acted as slaughterers . . . but now it is the custom, throughout the diaspora, not to trust the butchers; but skilled men are appointed for the slaughtering and examining, and the scholars rely on them, as they are scrupulous in their work and strictly observant of the laws, etc.'²

Even in Babylonia, however, during the Talmudic period not all the slaughtering was done by the butcher; the pro-

¹ Hull. 18a.

² Asheri Hull. i. 18a.

fessional slaughterer also existed *טבח אומן*. His services were required, no doubt, by those butchers who were not skilled in the ritual of slaughtering. Thus Samuel (d. 254) ruled that according to the opinion of R. Ma'ir, if a professional slaughterer performed the operation in a faulty manner, he is liable to pay damages whether he was paid for his work or whether it was gratuitously performed. Further, a case where the slaughterer had performed the operation in a doubtful manner was brought before Rab (d. 247), who exempted the slaughterer from paying damages to the owner of the animal, although he declared the carcass to be ritually unfit for consumption because of the doubt created by the slaughterer.¹ These instances clearly indicate that even at the beginning of our period the professional ritual slaughterer was in evidence. This follows even more clearly from the fact that Raba (d. 352) included the ritual slaughterer among those professions, such as teacher, planter, and barber, that stand in no need of warning and are liable for damage if they perform their work in a faulty manner.² It is readily understood that Raba's ruling can apply only to a professional slaughterer who performs that operation for others.

Besides the butcher and professional slaughterer it was one of the essential accomplishments of every scholar to be proficient in the art of ritual slaughtering.³ Ritual slaughter among the Jews in Babylonia was so well organized and so strictly supervised that it had become a well-known and accepted principle among them that most of the persons found engaged in the industry of ritual slaughter were naturally assumed to be learned and proficient in the art.⁴

In addition to the duty of ritually slaughtering the animal, the responsibility lay upon the butcher to remove all ritually

¹ B.K. 99b, both cases; see discussion in Gemara.

² B.M. 109a, bottom; B.B. 21b.

³ Hull. 9a *כתב שחיטה ומילה*.

⁴ Ibid. 3b *לעלופי לא חיישון, רוב מצויין וכו'.*

forbidden fat from the carcass. In this, too, a strict supervision had to be exercised over them by the scholars. Here, too, severe punishment was meted out to the butcher who failed to remove all ritually forbidden fat. If such fat were found on meat he offered for sale, even if it were no more than the size of an olive or that of a grain of barley, he would in the former case be chastised, while in the latter he would not be allowed to carry on his trade any longer. Such is the anonymous accepted ruling in the Gemara.¹

Considering the heavy responsibilities placed on their shoulders and the amount of trust that perforce had to be placed with them, one would expect that, as a class, butchers would be looked up to as the most pious of people. There is a well-known saying in the Talmud, however, which seems to point otherwise: 'The best of Tabahim (butchers) is the partner of Amalek', for the reason, as Rashi rightly explains, that they cannot resist the temptation of saving their monetary losses by selling meat of doubtful ritual validity as if it were truly ritually fit for Jewish consumption.² This, it is true, is mentioned in a Mishnah, and naturally portrays Palestinian conditions in a previous century; there are, however, a few indications in the Gemara that similar conditions prevailed in Babylonia during the period under review. Thus Rami b. Abba (3rd and 4th cent.) declared in a homily, 'The law concerning newly planted trees ערלה,³ cuts away the feet of the butchers קעבים' (ought to teach them patience, not to use meat before flaying and dissecting, as they are wont to do, regardless of the fact that the meat may be proved subsequently to have been ritually unfit).⁴

This fact is more clearly demonstrated by the frequent mention in the Gemara of the gross behaviour of some of the

¹ Ibid. 93b; see Gemara.

² Kidd. 82a.

³ Levit. xix. 23-25.

⁴ Bezah 25b; see subject in Gemara, *ibid.* 25a, and Rashi from קעב (Heb. = to cut, limit).

butchers towards the greatest of the Rabbis. Thus we read that Rab was once on strained terms with a certain butcher. The eve of the Day of Atonement drew nigh (the day on which people usually become reconciled with each other), and yet the butcher did not come before Rab for reconciliation. Rab, because of his great humility and piety, said to himself that he would open the door for reconciliation by going to the butcher for that purpose. On the way he was met by R. Huna, who, on being informed by Rab where he was going, remarked, 'Do you want to kill the man?' Rab, however, went on his way to the butcher and stood by him, as he was sitting and dressing the head of a carcass. Lifting up his eyes, the butcher saw Rab and said to him disrespectfully, 'Is that you, Abba (Rab's name)? Go, I will have nothing to do with you.' No sooner were these words uttered when a bone flew out of the head he was dressing, struck him in the throat, and killed him.¹ We also read that a butcher was actually caught selling ritually unfit meat under the guise of ritually fit. For this he was invalidated, by R. Nahman, from continuing to practise his trade, and his evidence was declared to be unacceptable on all matters. The subsequent signs of repentance displayed by the butcher did not have the effect of bringing about his reinstatement, since his sincerity was doubted by Raba.² Another instance is the case of the butcher who behaved irreverently towards R. Tobi b. Matna (4th cent.), for which Abaye and Raba placed the man under the ban of excommunication. This soon brought the butcher back to his senses, and he came to R. Tobi and begged his forgiveness.³ We also read that the butchers of the town of Huzal refused to give to the Kohanim the *מתנות* which was their prerogative from every animal slaughtered for food (see Deut. xviii. 3), and maintained their attitude, in spite of

¹ Yoma 87a.² Sanhed. 25a.³ M. Katan 16a.

R. Hisda's injunction to the contrary, for a period of twenty-two years.¹

It seems clear that the responsibilities placed with the butchers were too many and too heavy and the temptations that lay in their way too strong for some of them to be able to resist, and it was only natural that the tendency to relieve the butcher of some of his responsibilities gradually grew in force, till eventually he was divested of the right to serve as ritual slaughterer; nor is he now trusted with the removal of the forbidden fat, but that must also be done under the direction of a supervisor.

The slaughter-houses in Babylonia seem also to have served as a place for retailing meat to customers; for we read that, in the days of R. Judah (d. 299), people were wont to go to the slaughter-house to buy meat.² It was more usual, however, for meat to be sold in shops and stalls *מסחתא* (Syr. *מסחתא* = scales used for meat stalls) which lined the sides of streets and markets. Thus Raba mentioned the fact that he once walked behind R. Naḥman, in the street of the tanners, some say it was in the scholars' street, no doubt either in Nehardea or Meḥuza, when he observed certain blemishes on the lungs hanging on the butchers' stalls.³ The frequent use of the term *מסחתא* in connexion with the sale of meat proves that the stall or shop was the usual place for selling meat. Thus we find that R. Naḥman ruled that even if a Kohen becomes a butcher, he must set apart the portions that have to be given to the Kohen (see above) from the moment he sets up the *מסחתא*, which act is to be taken as an indication of his definite intentions to remain in the trade.⁴ Again, when R. Joseph speaks of slaughtering goats and selling the meat, he uses the expression that we say to the owner 'Sit by

¹ Hull. 132b; Halevy, iii. 182; Funk, i. 53.

² Kidd. 70a 'דעל לבי מבחיא וכו'.

³ Hull. 48a and b.

⁴ Ibid. 132b קבע מסחתא.

the *מסחנתא* (scales or meat stall) and get your money.¹ Further, in a case that came before R. Papa, the debtor said to the creditor, 'You sat at the stall *מסחנתא* and took the money as the meat was sold.'² The Gemara also speaks of a heathen partner sitting with the Jew at the *מסחנתא* stall where the meat was sold.³

As is the case at the present time, meat in Babylonia was sometimes sold for cash and at others on credit. It appears that this varied with the towns; whereas in some it was customary to sell on credit, in others it was not. Thus Rab declared that if he bought meat from a butcher and did not pay for it at once it would, in a sense, constitute a *Hillul Hashem* (profanation of the name of God).⁴ Upon this Abaye remarked that Rab's words held good only in places where meat was not usually sold on credit; but where it was usual for the butcher to go on his rounds collecting his debts, even a scholar may buy on credit. To which Rabina (4th and 5th cent.) added that in Mata Meḥasya it was customary for the butcher to go round collecting his debts. It is further related in the Gemara that when Abaye bought meat from two butchers who were in partnership, he would pay half the price to each of the partners.⁵ Choice joints of meat were reserved in those days, as they are at the present time, for important customers. Thus Raba declared that butchers usually reserved for him the choice portions of meat.⁶

The meat was ordinarily weighed in scales. A skilful butcher, however, would sometimes weigh the meat in his hands, by placing the required weight in one hand and the meat in the other. Another method sometimes adopted by skilful butchers *טבח אומן* was by the use of a vessel marked to indicate different weights. Water was then poured into the

¹ B.K. 23b; Kraus, ii. 366, note 384. ² Shebu'ot 42a. ³ Hull. 133b.

⁴ Yoma 86a; see Rashi, as people might misinterpret his intentions.

⁵ Ibid.

⁶ Hull. 44b.

vessel, and when the meat was placed therein the rise in the water indicated its weight.¹ It is readily understood that such inaccurate methods of weighing were resorted to only when meat was exceptionally cheap, and when either the butcher or the customer was in a great hurry. It was also customary in Babylonia to have meat cut up into pieces of a standard weight or size. This standard differed with the towns. Thus in Sura the standard was known as *תרמא* (Gr. = a third); in Neresh the standard was *הלקא* (Heb. = portion); in Pumbedita it was *אזיזא* (Arab. and Pers. = a standard portion); in Nehar Pekod and in Mata Mehasya it was known as *רבעא* (Syr. = a quarter).² It was usual for the butcher to pierce a hole in the meat sold which served as a hold for the buyer to carry it home. For this reason, R. Hiyya b. Ashi (3rd cent.) ruled that a butcher was not permitted to make this handhold when supplying meat to a customer on a festival day.³

It is interesting to note that in Babylonia it was the men who did the buying of meat. Thus Rab himself was in the habit of buying meat. Such is clear from what has already been quoted above. We also learn that R. Judah used to send his manservant to buy meat for him, and we read that in the shop he found other men customers. Rabbah b. R. Huna is also mentioned as buying meat and sending it home through a messenger. From what has been already quoted, it is clear that Abaye himself bought the meat in a shop. Raba too was wont to buy the meat himself and send it home through a messenger.⁴

The agricultural conditions of the Jews in Babylonia during the Talmudic period have now been fully described. An idea

¹ See Hull. *ibid.* מחקלא; also Gemara, Bezaḥ 28a לשקול בשר ביד. See Rashi, Kraus, ii. 378.

² Bezaḥ 29a; see Rashi, 'Aruk, Kohut אזיזא.

³ *Ibid.* 28a לעשות בית יד בבשר.

⁴ Rab. Yoma 86a; R. Judah, Kidd. 70a. Rabbah b. R. Huna, Bezaḥ 28a; B.M. 23b; Hull. 95b. Abaye, Yoma 86a. Raba, Hagigah 5a.

of the life of the Jew in that land may now be formed, and it becomes increasingly apparent that it differed very little from that of a people living in its own land and enjoying its own laws and customs. Their political condition was very favourable indeed. In many towns and districts of the country, the Jews formed the majority of the population. They also formed a not inconsiderable proportion of the dwellers of the countryside. It was not uncommon to find groups of Jewish farmers occupying whole valleys. The holdings of the farmers naturally depended upon their wealth. On the one hand were to be found the great Jewish landed proprietors *והררי*, whose lands spread far and wide; and on the other hand there were the smallholders, cultivating a few vegetables on small plots of ground. Many who did not possess land of their own rented farms, vineyards, and orchards, under the various forms of tenancy that were customary to the country. Others, again, were employed as hired cultivators and were engaged in all the various kinds of work connected with the cultivation of fields, vineyards, and orchards. The wealthy, too, did not fail to take advantage of the practice of slavery, and acquired large numbers both of male and female slaves. The slaves were chiefly engaged in personal and household duties, and were generally not employed in the cultivation of the soil. They did not therefore cause the peasant not possessing land of his own to be excluded from the position of hired cultivator, as was the case in ancient Italy; neither did the other detrimental effect of slavery, from which ancient Italy suffered, exist, namely, the land falling into waste, or being converted into pasture. The contrary rather was the case. The land in Babylonia was so extensively and intensively cultivated that there was no room for large herds and flocks, and the prohibition of the rearing of sheep and goats, which existed in Palestine, was extended also to Babylonia. The important irrigation works upon which the prosperity of the country

largely depended also occupied the attention of the Jews. In this sphere of work they seem to have excelled their heathen neighbours, for they were employed in large numbers even in non-Jewish districts. Land cultivation, in common with all kinds of manual labour, was regarded as a very honoured calling among the Jews of Babylonia. Many of the students and Rabbis were therefore farmers, tenant farmers, and even hired labourers.

In spite of the prohibition against rearing small cattle, there was no lack of shepherds tending these animals to be found in the country, since the prohibition was directed only against people tending their own flocks. Many shepherds were therefore engaged by others to tend their flocks and herds. Jews also acted as professional breeders and fatteners. The animals chiefly reared and kept in Babylonia were small and large cattle, asses, mules, camels, horses, dogs, and cats. The domestic birds, chiefly chickens, ducks, and geese, were also bred and kept by them. Pigeons were reared in considerable numbers, and they indulged also in bee-culture, fishing, fowling, and hunting. The industries of milling, baking, and butchering were also not neglected by the Jews in Babylonia. The butchering trade especially, because of the ritual involved, was well organized and under the control of the Rabbis. Considering all these facts, we must admit that the Rabbis were by no means exaggerating when they sometimes styled Babylonia 'The Land of Israel'.

Having considered the agricultural life of the Jews in Babylonia, we will now turn our attention to the examination of the Persian system of taxation, to which they were subject in that country, and to consider the relationship between the law of the land and Jewish civil law, since they were both respected and kept by the Jews in Babylonia. We will consider these subjects here because they stand in close relationship with the main current of our work.

X

TAXATION (TASKA AND KRAGA)

THE Persian system of taxation must of necessity have had a very important influence on the economic life of the Jews of Babylonia, and since the religion of the Jew pervades every phase of his life the system of taxation consequently had an important bearing on the religious life of the Jewish community of Babylonia. Because of this, discussions on the various taxes in force under the Persian régime are frequently found in the Talmud. From an examination of these discussions, a fairly comprehensive idea can be formed of the system of taxation as it existed under the Sassanides.

Of the various taxes, the two most important, and which should therefore be considered before all others are: (a) Taska מַסְקָא, land and property tax, and (b) Kraga כְּרָגָא poll-tax.

Taska. The מַסְקָא (Arab. and Syr. = land tax) was not merely a tax in the ordinary sense of the term, but was more in the nature of a ground rent paid to the Crown for the use of the land. It appears that under Persian law all lands were considered the property of the Crown, and possessors of land could call themselves owners only so long as they paid the Taska. 'The Crown has decreed that he who pays the Taska shall have the usufruct of the ground' is the saying of Abaye (d. 338). This is further emphasized by R. Ashi (d. 427): 'All lands are pledged for the Taska, and the Crown has decreed that he who pays Taska shall enjoy the usufruct.'¹ As soon as an owner ceased paying Taska for his ground he lost the right of enjoying the usufruct of the ground that year, and any one undertaking to pay the Taska

¹ Abaye, B.B. 54b. R. Ashi, B.M. 73b. See Funk, i. 17 מַסְקָא and כְּרָגָא Kraus, ii. 374, note 425.

for the year could enjoy that usufruct. This follows from the story of Rabina (5th cent.), who had bought wine from the wine producers of Akra on the Shanwata Canal, which canal, according to Obermeyer corresponded with the Nehar Isa of the Arabs. The doubt then arose in the mind of Rabina as to the legality of the vendor's holdings, as they had taken the land from people who had failed to pay the Taska; R. Ashi, however, reassured him that they were acting in accordance with the law of the land, for the Crown had decreed that he who pays the Taska has the right to the usufruct.¹

The original owners, however, did not thereby at once lose title to their lands; for whenever they felt themselves to be in a position to pay the Taska they could reclaim the land from the possessors.² During the period that others were paying the Taska the original owners did not have the right of selling the lands, and any sale actually effected by them was deemed to be invalid. This is well illustrated by the story of what happened in Dura Derauta, identified with Dur on the Tigris, during the days of R. Judah (d. 299). A Jew had bought a field from a heathen, but before he could obtain legal possession another Jew acquired it, and the sale to the former was declared by R. Judah to be invalid because the heathen vendor had failed to pay his Taska.³ The Persian government did not allow land for which Taska had not been paid by the owners to remain in such an unsettled state for long; but after the lapse of some time the land reverted to the Crown, which then usually sold it, through its agents, to such people as could pay the Taska, and from then onwards these became the legitimate owners. Thus Rabbah cited the ruling of 'Ukba b. Nehemiah the Exilarch (3rd cent.), in the name of Samuel, that those Jewish זורורי (Arab. and Pers. = large landed

¹ B.M. 73b; see Gemara and Rashi.

² See Maimonides הלכות גזילה v. 15.

³ B.B. 54b זורורי. See subject in Gemara and Rashbam.

proprietors) who had bought lands that had been confiscated for Taska from the agents of the Crown were to be acknowledged as the legitimate owners.¹ The fact that Samuel found it necessary to proclaim this ruling seems to indicate that the Jews in Babylonia were loath to accept the full logical consequences of this Persian law, by which a person, through inability to pay his Taska, perhaps through no fault of his own, or because of some temporary embarrassment, thereby lost all rights over his own lands which may have been in his possession for many years or which he may have inherited from his forefathers. As the term *הוררי* indicates, it was the wealthy landowners who were usually the buyers from the Crown agents, and without doubt it was the poor whose land was confiscated, and by such means the estates of the wealthy spread out far and wide at the expense of the poor. However, so long as a person paid his Taska, his land could not be touched by any one, and he possessed the right to dispose of it as he pleased. After his death it was inherited by the next of kin. That such was the case is readily seen from the many instances of sales, gifts, and inheritance of lands found in the Gemara (see Chap. II).

As may be gathered from the Talmud, Taska was not always levied on each individual field, but on a group of fields lying together or on a valley as a whole *באנא* (Syr. and Pers. = garden, orchard, used in the Talmud for a group of fields lying together). In all such cases the amount for the whole valley was assessed by the agents of the Crown, and the owners of each individual field contributed to this amount, naturally according to the proportion of the assessed unit they possessed and according to the richness of the soil. They then collected the assessed amount among themselves and paid it

¹ B.B. 55a; see Rashbam. Another reading for *הוררי* is *יארי* (Pers. = one who can afford, Rashi). See Kohut and Jastrow; also 'Aruk = officers appointed for the Taska.

to the accredited agents of the Crown. Thus it was a matter of indifference to the government which individual paid his share, so long as they received the assessed amount for the whole unit.¹ Any individual, knowing that he would be unable to pay the Taska for the year, whatever the cause might be, whether poverty or absence, could make provision for another person to enjoy the usufruct of his ground and pay Taska for the year.² If the owner of the field did not make the necessary provision, or had left it to the discretion of the owners of the other fields that formed one unit with his own, they had the right of selecting some one to enjoy the usufruct and pay Taska. These arrangements, it appears, were not interfered with by the Crown so long as it received from the unit the assessed amount. The original owner could always reclaim his field whenever he felt in a position to do so. All this follows from a case that came before R. Papa (d. 378), concerning a certain Giddol b. Re'ulai who had been selected by the owners of a number of fields lying together in a valley *בני באנא* to enjoy the usufruct and pay the Taska of some fields that had been left to their discretion by the owners, who were absent. Giddol, intending no doubt to obtain a longer hold on the ground, paid the Taska in advance for three years. The owners, however, returned at the end of the first year and claimed their fields, saying, 'We will now pay Taska and enjoy usufruct'. Giddol therefore claimed from the *בני באנא* the return of the Taska for the other two years he had paid in advance to them. This claim of his was disallowed by R. Huna b. Joshua, the colleague of R. Papa.³

This story clearly indicates that the occupiers of any unit of assessment took care of each other's fields to see that the Taska was paid, so that the agents of the Crown should have

¹ Gitt. 58b; see Rashi on the subject *מבני באנא*.

² See Tosafot, B.B. 54b *באני דמטמרי* and Gitt. 58b *אנן וכ'.*

³ Gitt. 58b.

no cause for selling the land, thereby depriving the owner of his holding. It was no doubt only in cases of persistent negligence on the part of the owner or where all the dwellers of a valley failed to pay the Taska that the lands were ultimately sold by the Crown. That such cases did actually occur is proved by the words of Abaye: 'There, in the case of Dura Dera'uta (cited above), the valley was such that the owners of it had hid themselves (fled) so as not to pay the Taska.'¹

Not only agricultural land but also buildings were subject to this tax.² In these cases it appears that the Taska was levied on each house separately, and was paid either by the landlord or tenant according to agreement. This is evident from the anonymous expression in the Gemara רָקַבַל בְּטַסְקָא. 'It deals with a case where the tenant undertook to pay the Taska.'³ The same arrangement between landlord and tenant was also in operation with agricultural land. In cases, however, where a person pledged his property for a loan the Rabbis enacted that the owner should pay the Taska, so that after a lapse of years no dispute should arise as to who was the rightful owner.⁴ The necessity of the Rabbis' enactment proves that the Persian law had made no provision for such eventualities.

The story cited above concerning Giddol b. Re'ulai seems to indicate that the Taska was usually paid once a year. A more definite statement to the same effect is found in the Gemara. While dealing with a question concerning inheritance of lands under the Persian régime, we find the following expression: 'He (the father), before his death, had paid the Taska for the year.'⁵ From extraneous sources we

¹ B.B. 54b.

² Nedar. 46b, where it deals with baths and oil-pressing houses.

³ Ibid. ⁴ B.M. 110a 'מָרִי אֶרְעָא יְהִיב טַסְקָא וְכוּ'; see Gemara.

⁵ B.B. 55a; see the subject there.

learn that the land tax was paid three times a year at intervals of four months (Tabari, Sykes's *History of Persia*). This would not however preclude a person paying his Taska once a year, if he so desired, or even three years in advance as actually was done by Giddol b. Re'ulai.

Not all lands, it seems, were subject to Taska. Thus while discussing the question whether the owner should pay Taska for lands pledged by him for loan, the question was raised by Rabina to R. Ashi, 'Suppose it is land that is not subject to Taska?'¹ Exemption from the tax apparently could be bought from the Crown, or perhaps the Persian government granted exemption from taxes to individuals for services to the State, just as Josephus (*vita* 70) states that the Emperor Domitian exempted his property from taxes. The Talmud gives no indication of the amount of this tax, but it seems to have been sufficiently heavy to cause poor cultivators sometimes to lose possession of their lands. According to Tabari, before the days of Kosrau Anosurvan (531-78) the land tax ranged from a third to a sixth of the produce, according to the richness of the soil.²

Besides the Taska there is mentioned in the Gemara another tax connected with agricultural land, which was known as מנתא דמלכא 'the portion of the king'. This is the tax referred to by R. Judah (299), when he explains מנרה (Ezra vii. 24) as corresponding to what was known in his time as מנת המלך 'the portion of the king'. Mindo is also explained as מרת הארץ 'the measuring of the ground' (from מרה).³ This was a tax levied on the produce of the field. To collect this tax, the tax-

¹ B.M. 110a; see Rashi הוא קניא רוא. Dr. Herzog suggests that the reading in Rashi should be קלניא = exempt from taxes, from analogy with the Roman colonia; see Tosafot Hall. 7a והתיר.

² See Funk, i. 17; Nöld., *Tabari*, 241, note 1.

³ B.B. 8a, Gen. Rabbah lxiv. 8, Introduction Est. Rabbah 5. 'Aruk = land tax; see Jastrow.

collector was accustomed to attend at the barns and seize the assessed amount from what he found there. Even if the field happened to belong to a few partners, and the grain lying in the barn happened to be the share of only one of them, the collector could seize his grain in payment of the tax due from all the partners, and it was incumbent upon the victim to claim from his partners their share of the tax. Thus there is the ruling of Raba: 'He who is found in the barn, by the tax-collector, pays the *מנתא דמלכא* the king's portion.' To which the Gemara adds that this ruling refers only to partners but not to a metayer, who pays the tax for the owner, as the collector had no right to take it from him.¹

From appearances it seems that the 'King's Portion' was altogether a different imposition from the Taska, and nowhere in the Talmud are the two identified. Again, the manner of its collection seems to have been different from that of the Taska. Further, we find Raba ruling that the Jewish tax-collector may seize in pledge a person's goods for the current year's produce tax *בולרא* (Arab = produce of the field) due from a fellow townsman, but not for a previous year's tax,² and had this been identical with the Taska, there should have been no necessity for seizing pledges to assure payment; for with the Taska the owner's hold on his land was imperilled if he failed to pay the tax. These considerations seem to indicate that the 'King's Portion' was an entirely different tax from the Taska; the former being paid in kind, the latter most likely in money.

It seems difficult to believe, however, that there should have been two kinds of regular taxes levied on agricultural ground. To reconcile the apparent differences between the Taska and the 'King's Portion' it may be assumed that Taska

¹ B.K. 113b; see Gemara and Rashi there.

² Ibid. *בר מנתא אבר מנתא מיכנט וכו'.* 'Aruk reads *בולרא* (Gr. = land tax).

could be paid either in money or kind. In the case of buildings it must certainly have been paid in money. With agricultural land, however, whether assessed in groups or as individual fields, the alternative mode of payment was in operation. The tax-collector would call at the barns after harvest to receive the assessed portion of the produce or its value in money. If on coming he found that the produce had been removed before his arrival, he would then try and take as pledge the movable property of the defaulter. Where that was not possible, he could take pledges from a fellow townsman for the defaulter. It was only as a last resort, when the owners were in the habit of defaulting and removing their produce and fleeing or concealing themselves, and this only where all the dwellers of a valley acted in concord in this way, that the Crown had to resort to the drastic measure of confiscating the lands. This is what is to be understood by the expression *באני דמיטמרי*. All the owners of the valley had concealed themselves not to pay the *Taska*.¹

Kraga. Just as important as the *Taska* was the tax known as *Kraga* or poll-tax *כרנא* (Arab. = poll-tax *למס* Lam. i. *הוה לכרנא*). Again, just as in the case of the former the land was pledged for the *Taska*, so also with the latter the freedom of each individual was pledged with the Crown for the *Kraga*. By paying *Kraga*, the individual redeemed his freedom from the Crown.² Everybody was subject to this tax, both men and women, Jew and heathen.³ Even orphans are mentioned as subject to *Kraga*.⁴ As in all cases where

¹ B.B. 54b.

² Yeb. 46a; B.M. 73b *מנה דמלכא בטפסו דהני מוהרקייהו*. The surety for these people lies in the archives of the king, &c.

³ See Yeb. 46a, where the defaulters were heathens, as the question raised is concerning their manumission; in B.M. 73b, however, the question is raised concerning interest, which clearly refers to Jews.

⁴ See Ketub. 87a; Gitt. 52b; B.M. 108b; Rashi and Tosafot on *לכרנא* and *כרנא*.

Kraga is mentioned in connexion with women the Gemara deals with widows, it may be assumed that only women in their own right were subject to Kraga.¹ The attendants at the fire-altars and temples or the servants of the Magi were free from this tax. Thus Raba once made a statement that a scholar may declare himself עכרא דגורא 'an attendant of the fire' in order to free himself from Kraga.² He would not be defrauding the revenue by this means, as scholars were also exempt from Kraga; but no doubt the exemption of the Magi was more readily acceded to than that of the scholar.

Kraga was levied in the following manner. The Resh Nehara (chief of the province) passed through the towns and villages under his jurisdiction and formed an estimate of their respective populations. He then assessed the amount which was to be contributed by each town or village as a unit. Thus we read that the father of R. Zera (3rd cent.), who was twelve years a tax-collector, was wont to give warning to the dwellers of a town, both scholars and laymen, when the Resh Nehara was expected to come. This he did in order to enable them to conceal themselves before his arrival, thereby lessening the imposition he would lay upon the town.³ The apprehension felt at the coming of the Resh Nehara is a sure indication that these officials wielded their power in a high-handed and not always in a just manner.

Each district concentrated on its chief town, with which all the smaller towns around were assessed for the Kraga. Such can be inferred from the following story. R. Hamnuna was discussing some points of law in the presence of 'Ulla (3rd cent.), when the latter remarked: 'A great pity that such

¹ But see *ibid.* Tosafot, who maintains that women were subject to Kraga during the lives of their husbands, who were assessed for them.

² Nedar. 62b; see R. Nissim and R. Asher on this subject there.

³ Sanhed. 25b, 26a; see Funk, ii. 12.

a man be a citizen of Harpania.' Observing that R. Hamnuna felt slighted, he quickly asked him, 'To which town do you pay your poll-tax?' R. Hamnuna replied, 'To Pum Nehara.' 'If so', observed 'Ulla, 'you belong to Pum Nehara.'¹ This would indicate a proximity between these two towns. Obermeyer's placing of Pum Nehara on the Nil Canal and Harpania on the Sat-al-Hai close to Wasit, in the far south, cannot therefore be accepted.² R. Hamnuna would most probably have lived in some place in the vicinity of the two towns. Another inference to the same effect can be made from the following: R. Huna b. Joshua (end of 4th cent.) ruled that a citizen of a town may object to the citizen of another town opening a shop or setting up as a handicraftsman in competition with the inhabitants of this town. If, however, he is accounted to the town for the Kraga, no objection could be raised against him.³

After the town as a whole had been assessed for the amount of Kraga it should contribute to the coffers of the State, it was left to the local authorities to determine which person should pay and who should be exempt from paying the tax. The power of granting exemption from Kraga lay in the hands of the town council, which consisted, among Jews, of seven elected members with the most learned scholar of the town at their head.⁴ The exemptions granted by the town council did not affect in any way the governmental assessment, for it was equivalent to the town undertaking to pay Kraga for those they thought fit to exempt. Among Jews, the only persons privileged to exemption from this tax were recognized scholars. Thus we read that R. Nahman b. Hisda

¹ Yeb. 17a. The purity of descent of the Jewish families in Harpania was regarded as tainted because of its proximity to Mesene.

² See Obermeyer 199, who attempts to explain the difficulty in another way.

³ B.B. 21b דהבא עיר = a scholar who is devoted to the welfare of the city; also B.B. 8a, see Funk, i. 37, note 7.

⁴ See Megill. 27b עיר = a scholar who is devoted to the welfare of the city; also B.B. 8a, see Funk, i. 37, note 7.

(4th cent.), who was the head of his town, most likely either Sura or Kafri, wanted to include scholars among those subject to Kraga, and he had already actually assessed them for it when R. Nahman b. Isaac pointed out to him that according to Jewish conceptions they should be exempt.¹ Again, Raba made the statement that as a scholar is not subject to Kraga, he should therefore not be diffident in declaring himself as such, in order to free himself from this imposition.² This exemption does not seem to have been recognized everywhere, for we find that R. Papi was subject to it and the story goes that as an expression of thanksgiving for having saved him severe punishment at the hands of the Exilarch, b. Hama undertook to pay R. Papi's Kraga all his life.³ From the story already quoted with reference to R. Hamnuna it is clear that he too was subject to Kraga, although in his case it may be assumed that this was only prior to his being recognized as a scholar.

From the Talmud it is not quite clear in whose hands lay the power of determining the amount each individual should contribute towards the total assessment of the town. The assessment naturally was according to the wealth of a person. There is some indication that the power lay in the hands of the Crown officials, and the town council would collaborate with him in an advisory capacity. Thus R. Ashi ruled that even a פרוכה (Pers. = idle, workless, or leisured person) must bear part of the town's burden of taxes; but only if the town council saved him from being assessed by the Crown officials; but if the officials of their own accord passed him by, it is to be considered as a divine grant; he is therefore free from contributing towards the burden of the town's taxes.⁴

¹ B.B. 8a. ² Nedar. 62b; see Bacher, 133, note 2; Funk, i. 80, ii. 12.

³ Sanhed. 27b וקבליה לברגיה רבולי שניה.

⁴ B.B. 55a; see Rashbam, also Tosafot. אנריסקי = the state scribes. See also 'Aruk אנריסקי and Kohut in name of R. Hai (Pers. = king's seal).

As already explained, the State regarded the whole town as a unit, for the purpose of taxation, to the assessed amount of which all the townspeople contributed. It is self-evident that the failure on the part of any individual to pay his share would occasion a corresponding increase in the amounts to be paid by others. As there existed many poor people who could not afford to pay Kraga, the wealthier sections of the population would therefore pay the tax for them. By way of repayment, they compelled the defaulters to work for them, which was usually for more than the actual amount of the tax paid on their behalf. In this they were acting strictly in accordance with the law of the land; for according to Persian law the freedom of each individual was pledged to the Crown for the Kraga, and, by paying tax, each person redeemed his freedom from the State. The State therefore possessed the right of transferring the services due to it from the defaulters to those people who paid the tax for them. Thus R. Papa remarked to Raba, 'Have you observed that some of the scholars are wont to pay Kraga for other people, and then they work with them for more than the amount actually paid? Is not this a form of taking interest for loan?'¹ To which Raba replied: 'Thus said R. Sheshet (3rd cent.), the security (for the freedom) of these people lies in the archives of the State, and the Crown has ordained that he who does not pay Kraga can be made to serve the one who pays it for him.'² Paying Kraga for defaulters was therefore equivalent to buying their services from the Crown, and was not to be looked upon in the light of a loan to the defaulters. Since the ques-

¹ See B.M. 73a. Tosafot who does not read טפי (more than the amount of the Kraga), since the defaulters subsequently repaid, but Maimonides עבדים i. 8 and ראב"ד there, who does read טפי, the interest being the extra amount of work, for there was no repayment.

² B.M. 73b; see Funk, i. 17, ii. 11. מוהרקייהן דהני בטפסו דמלכא לא יהיב כרגא לשעתעבור למאן דיהיב כרגא מנה, ומלכא אמר מאן דלא יהיב כרגא לשעתעבור למאן דיהיב כרגא.

tion raised by R. Papa referred to interest it clearly proves that in the case in question the defaulters were Jews. Another instance to the same effect is found, but in the latter case the defaulters were heathens. R. Papa remarked to Raba, 'Have you observed that the family of Papa b. Abba pay Kraga for people and then work with them? Now, when the defaulters are let free, do they, according to Jewish law, require a bill of manumission or not?' In answer, Raba quoted the words of R. Sheshet, mentioned above, implying thereby that should those defaulters decide to become proselytes they would stand in need of a bill of manumission before they could be accepted in the fold. Since the question was raised concerning the manumission of the defaulters, these could only have been non-Jews.¹

The principle underlying the Kraga was similar to that underlying the Taska, and just as with the latter the ultimate payment of the tax was assured by the principle that the land is the property of the State, so with the former the fact that the freedom of every one was pledged with the Crown assured the eventual payment of the tax. Such a principle, because of its very nature, must have served as a fertile means of exploitation of the poor by the rich. The most that has been urged in its favour was that it served as a means of keeping the idle and lazy able-bodied men from degenerating into beggars and becoming a burden to the community.²

Many people who were not able to pay the Kraga would flee from the town in order to avoid being taken to serve others,³ and kept away until the assessed amount had been collected from the town. On their subsequent return nothing could be done to them by their fellow citizens, the reason being because the moment the State received the full amount of the assessed tax from the town, all its citizens automatically

¹ Yeb. 46a; see Rashi there.

² See Funk, ii. 12.

³ B.M. 39a: 'Fleeing because of Kraga.'

received back, for the year, their freedom pledged with the Crown; the defaulters, having now legally regained their freedom from the Crown, could henceforth be regarded only as ordinary debtors of their fellow citizens, who had paid the tax for them, or of the tax-collector, who sometimes paid the tax to the State before actually collecting it. As they were merely debtors of individuals and not of the State, the defaulters could not be made to serve those individuals. Again, if the collector had paid to the State the assessed amount, he could not compensate himself from the other citizens for the defaulters. Thus there is a statement of Raba: 'The tax-collector may take pledges from one citizen for the tax due from another; but only for Kraga of the current year, and not for a default of Kraga in a previous year, since the Crown had already been satisfied.'¹ It is readily seen that a good organization among the citizens of the town was of the utmost importance, in order to make sure that each person bore his rightful share of taxation.

There is a difference of opinion among authorities whether a person's property could be confiscated for the Kraga. The Persian law does not seem to have been clear on this point. Thus there is the anonymous statement in the Gemara that sales by Crown agents of a person's property for Kraga were not to be considered legitimate, for the reason that 'Kraga rests on the head of man', that is, it is only a personal liability. On the other hand, R. Huna b. Joshua (4th cent.) is of the opinion that property can be seized for Kraga. 'Even the barley in the pot is pledged for Kraga', he is found saying.² The majority of opinion seems to have been on the side that property was not pledged for Kraga.³ As a matter of fact, cases are mentioned in the Gemara of people fleeing in order

¹ B.K. 113b דהאי שתא כרנא. See Rashi upon this.

² B.B. 55a אפילו שערי דכרא וכו', כרנא אקרקה וכו'.

³ See the Gemara there.

to default in the paying of Kraga, and their property was not only not seized, but the question discussed in the Gemara was how to administer the property during the owner's absence.¹ The Crown agents sometimes resorted to the drastic measure of selling one's property for Kraga, but as such sales were not considered legitimate Jews were forbidden to buy. This is clear from the expression 'but the sales (by the Crown officials) for Kraga are illegitimate'.² The uncertainty of the Persian law on this point, however, misled even the scribes of the court of Raba, and they drew up conveyances for property sold by Crown officials for Kraga. These conveyances were subsequently declared in the Gemara to have been erroneously drawn.³

Tax-collectors. All we have just written concerning Taska and Kraga clearly indicates that both these taxes were given over for collection to tax-collectors, who were appointed by the Crown and were responsible for the assessment made by the Resh Nehara. The amount which the collector could claim from each individual was fixed, no doubt, according to the wealth of the person in the case of Kraga, and according to the richness of the soil in the case of Taska. Thus, while discussing the question why tax-collectors were disqualified from giving evidence in court, the reason is given anonymously in the Gemara: 'At first they (the Rabbis) were under the impression that the collectors claimed only the fixed amount, but when they observed that they extorted more than was due, they were disqualified.'⁴ There is no indication

¹ B.M. 39a בורח מחמת כרנא. ² B.B. 55a אבל לכרגא לא.

³ Ibid. שאלתינהו . . . ולא היא . . . לאוקומו מילתיה. The expression in the Gemara that for Kraga, food and burial property may be sold without *אכרזותא* (previous announcement) (Ketub. 87a; Gitt. 52b; B.M. 108b) does not deal with the right of the Crown to sell property for Kraga, as Funk asserts, but it refers to the management of the property of orphans by the Jewish courts, as is clear from the context. See commentaries.

⁴ Sanhed. 25b.

in the Gemara of the amount usually levied on the average person, but the somewhat ambiguous statement that a certain person possessed a date-palm which was well known, because its yearly produce of fruit was sufficient to pay the owner's Kraga for the year.¹ In considering this, allowance must be made for the cheapness of dates in the country. From extraneous sources we learn, however, that before the year 581 the poll-tax ranged from four to twelve Dirham.² Any claim by the collector above the legitimate amount was clearly robbery on his part. From the quotation given above, it appears that many of the collectors took advantage of their official position, and extorted from the people as much as they possibly could. For this reason the Jewish members of that profession were placed by the Rabbis on the same footing as thieves and robbers, whose evidence was not accepted in the Jewish courts. This is clear from what has already been adduced. There were not wanting, however, in Babylonia, tax-collectors who were also righteous men. To this class belonged the father of R. Zera (3rd cent.), and R. Huna b. Ḥiyya (3rd and 4th cent.).³ R. Judah therefore declared that in the case of tax-collectors, only those who were known to be extortionate should be disqualified from giving evidence.⁴ The unscrupulous members of the profession, it appears, were predominantly the majority, and this fact caused the profession to be looked upon with disfavour by the Rabbis. Thus, after the death of R. Judah in 299, it was decided to appoint R. Huna b. Ḥiyya as Head of the Academy of Pumbedita. While Rabbah and R. Joseph together with a concourse of four hundred scholars were on their way to pay their respects to him, they were informed that R. Huna had been appointed tax-collector. Immediately word was sent him, from the as-

¹ 'Erub. 51a.

² Nöld. *Tabari*, 246; see Funk, ii. 12.

³ Father of R. Zera, Sanhed. 25b. R. Huna b. Ḥiyya, Bekor. 31a.

⁴ Sanhed. 25b כשר נבאי.

sembly, that his election as Head of the Academy was not acceptable to the scholars. On hearing this, he at once retracted and refused the tax-collectorship. His retraction, however, proved to be of no avail; while even the intervention of Rabbah in his favour could not change the opinion of the scholars; consequently he was not appointed to the position left vacant by the death of R. Judah.¹ Governmental appointments in general, for Jews, were not looked upon with much favour by the Rabbis. R. Judah is mentioned as expressing his pleasure at the fact that Jews were not appointed to the positions of Resh Nehara and of Hazar Paiti (a class of oppressive Persian officers) by the Persian government.² Apparently the temptations to corruption and extortion that lay in the way of those occupying these positions was more than the average person could withstand.

It is clear from what has previously been written that the tax-collector was responsible for the full amount of the assessment made on the town; it was therefore also in his own interests to see that no one escaped paying. He possessed the right of extracting the tax from the citizens who were to be found in the town for those who had concealed themselves.³ As already explained, the Rabbis allowed the Jewish tax-collectors to do so only for the current year, but not for tax owing to him from a previous year. It is only natural to assume that the Persian collectors paid little regard to such considerations of right or wrong, especially when a personal monetary loss was at stake, and it is not unlikely that many Jewish collectors likewise disregarded the injunctions of the Rabbis.

From extraneous sources we learn that, like the Taska, the poll-tax was collected every year in three instalments.⁴ From

¹ Bekor. 31a; see Yawitz viii. 7.

² Ta'anit 20a; see also Shabb. 139a and Sanhed. 98a.

³ B.K. 113a; cf. B.B. 55a.

⁴ Sykes, *History of Persia*, 462.

the Gemara it is clear that it was quite usual to pay the whole of either of these taxes in one instalment. Thus, while discussing the question of inheritance under the Persian régime, Amemar (3rd and 4th cent.) remarked: 'The father, prior to his death, paid the Taska and the Kraga for the year, thus leaving unencumbered property.'¹

Some idea can now be formed of the nature of the accusation made against Rabbah (d. 320) that he kept twelve thousand people twice a year from paying Kraga, through their attending his lectures at the Academy one month during summer and one month during winter (the Kallah months). The migration of thousands of heads of families to the Academy during these months occasioned difficulties to the tax-collectors, who were responsible for finding the money of the full assessment for each town. These people could not be made to pay at the Academy, as a person was liable only to his district. It is also probable that many of them claimed exemption as scholars. Again, the absence of so many people from their native towns naturally lessened the assessment made by the Resh Nehara, and this occasioned a fall in the revenue. The blame for all this was laid at the door of Rabbah, who really was innocent of any attempt to defraud the Crown.²

¹ B.B. 55a.

² B.M. 86a; see Rashi, also Halevy, iii. 447-55. For payment at place of residence cf. Yeb. 17a and above.

XI

TAXATION (*continued*)

Customs and Tolls. The Taska and Kraga, as has been shown, were direct taxes levied by the State and collected by tax-collectors directly appointed by it. There were also a number of indirect taxes, such as customs dues and tolls on goods taken across bridges which spanned the rivers and canals. To collect the latter classes of taxes the Crown did not appoint its own officers, but sold the revenue therefrom to publicani (מוכס from Heb. מכס, Syr. מכסא = toll, tax); consequently all the income from these dues belonged to the publicani.¹ As is well known, such a system is subject to much abuse; for it is in the interest of the publican to extort from the public as much as he possibly can. On the other hand, the merchants, being fully aware of what use these people make of the power placed in their keeping, try their very best to deceive them as to the value of the goods they are conveying, or attempt to smuggle their goods across without paying any dues at all.

The Mishnah² teaches that one may deceive highwaymen, robbers, and publicani in order to save himself from being robbed or to free himself from paying dues or tolls, by declaring the goods he is conveying to be Trumah (heave offering) or as belonging to the Crown. Seeing that the Jews in Babylonia were guided by the teaching of the Mishnah in all things, the anonymous question is at once raised, in the Gemara, 'Have we not accepted the dictum of Samuel that the law of the State must be respected? Why should a person be allowed to deceive the publicani who had bought the revenue of the customs from the government?' The answer to this is given

¹ See Shabb. 78b, Rashi there, and B.K. 113a, Rashi on דינא דמלכותא
דינא.
² Nedarim 27b.

by R. Hanina b. Kahana, in the name of Samuel, that the publicani in question were such as acted illegitimately by not having fixed rates of dues.¹

From the foregoing it is clear that two classes of publicani were found in Babylonia: (a) those that carried on their business in a legitimate manner, by having a fixed rate of dues and tolls; (b) those that had no fixed rates of dues, but extorted as much as they possibly could. Jews were forbidden by the Rabbis to practise deception on the former class of publicani, but not on the latter class, since they themselves were acting illegitimately. Publicani in general, even of the former class, were on the whole regarded as unscrupulous persons, and because of this they became objects of aversion to their fellow Jews. Such is evident from what has already been quoted concerning them. Again, there is the anonymous expression in the Gemara that formerly the Rabbis were under the impression that the publicani charged only the amounts of the dues that had been fixed, but as soon as they learned that they took more than was legitimate they were disqualified from being accepted as witnesses in Jewish courts.² Moreover, the qualification made by R. Judah concerning tax-collectors, that the average collector is not to be considered disqualified unless he was known to be extortionate, did not apply to publicani.³ A common method of extortion was to send their hirelings in pursuit of merchants who had already paid their dues, accusing them of having smuggled goods across. The merchant, if he happened to have lost the publican's signature of release, would be compelled either to

¹ See also B.K. *ibid.*; similar discussion on the Mishnah; see 'Aruk and Kohut מנכס.

² Sanhed. 25b בין דחזו referring both to tax-collectors and publicani, Kraus, ii. 375.

³ See Sanhed. *ibid.* The Gemara deals with both, while R. Judah's qualification refers only to נכס. Publicani therefore remained in their previous state of disqualification.

pay a second time, or to go back to the custom-house to prove his innocence.¹

Recognized scholars were exempt from paying tolls and customs duties, just as they were exempt from Kraga. Not only the scholar himself, but even his agent, trading with his goods, was exempt from paying dues on those goods. Thus we read of a **בזינא** (Pers. bazwan, bazban = collector of bridge toll) who came to Abaye and asked him for a specimen of his signature, so that he should be able to recognize it when scholars came before him bearing Abaye's recommendation to free them from dues.² Again, R. Hama, who lived in Nehardea at the end of the fourth century, remarked that wherever his agents carry his goods they are absolved from paying dues.³ It is self-evident that such privileges could only be exercised in Jewish towns and districts, where both the tax-collectors and publicani were usually Jews, and consequently subject to Jewish law.

The reason that these privileges, as well as many others, were afforded to the scholars was because salaried Rabbis as such did not exist in those days. Every scholar had to find his livelihood by other means. Privileges were therefore granted them so as to enable scholars to have less difficulty in earning their livelihood, that they might have more spare time to devote to study.⁴ Great care had perforce to be taken by the Jewish authorities that these privileges were not abused, and also to prevent people masquerading as scholars in order to enjoy the privileges. Thus we read that the Exilarch once commissioned Raba to examine R. Dimi to see whether he was a scholar worthy to receive the privilege of

¹ Shabb. 78b **רהיט מוכסי** = hirelings of the publicani who pursue merchants. See Rashi; Kraus, ii. 375.

² B.B. 167a; see Funk, ii. 21.

³ B.M. 65a.

⁴ B.B. 22a **כיון דרבנן נינהו אתו לטרו מנירסייהו** as they are scholars they will have less time to devote to their studies. See Halevy, iii. 452.

the market of Pumbadita, to which he had brought to sell dried figs from Nehardea. Raba did not go himself to examine but sent R. Adda b. Abba to do so. As R. Dimi did not stand the test very well, he was not given the privilege of the market. This must have happened prior to the year 322, as R. Joseph was yet alive at the time.¹ The story of Abaye and the **בוינא** also proves that it was necessary for a scholar to bear the recommendation of a well-known authority, like Abaye, before he was afforded the privileges of a scholar.

Arnona or **הלך**. Another important tax was the one referred to in the Gemara as Arnona **ארנונא** (an adaptation of *annona* = tax from crops and other farmers' produce). The tax known as **הלך** (Ezra vii) is explained by R. Judah to be the same as what was known in his time as Arnona. This imposition, according to Rashi, was a regular tithe levied every year on crops and cattle. The majority of commentators, however, explain it to have been an imposition on the dwellers of a town or district to provide provisions for the court and for the various provincial governors with their retinues during the whole time of their stay in any district. Such is also indicated by the term **הלך**.² The questions put to Raba concerning cattle subject to Arnona, and in connexion with dough subject to the same tax, is clearly in support of the opinion of the majority of the commentators, that it was an imposition for provisioning the court and State officials.³ This tax was usually paid in kind, in the form of a tithe, but sometimes it could be commuted into money payments. Thus the question is put to Raba, with regard to cattle or dough subject to Arnona, whether there was any difference ritually between cases where the payment could be commuted into

¹ B.B. *ibid.*

² See B.B. 8a. Tosafot on **והלך** also Ned. 62b R. Nissim. See 'Aruk, Kohut on **ארנון** (Gr. *eranus* = tax to provide provision for troops). See Funk, i. 18.

³ Pesah. 6a **בהמת ארנונא**, **עיסת ארנונא**.

money and those where they could not.¹ For collection, the Arnona was most probably given into the hands of tax-collectors similar to those employed for the collection of Taska and Kraga, and it is not improbable that the same officials were employed to collect all the taxes.²

Angaria. In addition to the taxes already dealt with, the people were also subject to Angaria (Syr. אַנְגָּרְיָא = forced labour).³ They were at all times subject to their animals being commandeered for public service, and sometimes even the persons themselves would be seized for the same purpose. Thus the Mishnah teaches that if one hires an ass from another and it is commandeered for Angaria, the owner may say to the person who has hired it from him, 'Take the ass wherever it may be', that is, the owner is not obliged to supply him with another in its place. Upon this Rab observes that such ruling is to be accepted only when the Angaria in question usually gives back the animal commandeered, but not with such Angaria as does not usually return the animal. Samuel, on the other hand, maintains that the ruling of the Mishnah holds good even with such Angaria as retains the animal.⁴ The foregoing clearly shows that when animals were requisitioned for Angaria they were not always returned to the owners, to whom, no doubt, it was accounted a total loss, as there is nothing to indicate that the State compensated the sufferers in any way. On the other hand, there is a clear indication that animals requisitioned for Angaria were regarded as entirely lost to the owners. Thus we read of a case where one gave another money for a certain ass, but before the purchaser had made any legal form of acquisition it came

¹ Ibid.

² See B.K. 113a; San. 25b: collector of Kraga and Arnona, Rashi.

³ Cf. Kraus, ii. 327, note 96. The celebrated Persian postal service was also known as Angaria.

⁴ B.M. 78b; see Gemara *ad locum* אַנְגָּרְיָא חוֹזֵרֶת, see Rashi.

to his knowledge that Parzak Rufila (an important Persian court official) was intending to commandeer the animal; the purchaser therefore retracted and demanded the return of the money. The case came before R. Hisda (d. 309), who ruled that, seeing that an animal commandeered for Angaria is considered a total loss, the purchaser is entitled to retract; the money therefore must be returned to him.¹

When troops were quartered in a town, accommodation had to be provided for them by the citizens. The actual distribution of the soldiers among the householders was undertaken by the town authorities. Thus we find R. Huna seeking the advice of R. Ami (one of Rab's earlier disciples) as to how the distribution of the soldiers among the householders should take place.² We read that troops once came to Nehardea in the days of R. Naḥman (d. 320), and because of this, the scholars were unable to come together in the usual meeting-place as was their wont. R. Naḥman therefore had to make provision for the scholars to meet in the fields outside the town.³ The reason for this was no doubt because accommodation for the soldiers had to be provided for, and the meeting-place of the scholars was utilized for the purpose.

During the time that troops were stationed in a town or in a countryside, the townspeople and the farmers were under obligation to prepare all that was necessary for the welfare of the soldiers, such as preparing their food, although the actual supplies were provided by the government. Thus the question was asked of R. Huna whether the farmers were

¹ See Maimonides הל' מ'כירה ii. 6, and Hoshan Mishpat cciv. 2 for reason of R. Hisda's ruling.

² B.B. 11b אכסניא (Gr. = mercenaries) Rashi; see Kohut. Tosafot in name of R. Hananah and 'Aruk give another interpretation.

³ 'Eruv. 34b. The troops in this case were not enemy troops but of the Persian government, as is clear from the fact that no hardships were felt, but only there was lack of space for the scholars to meet. See Halevy, iii. 448-51.

ritually justified in baking bread for the soldiers, during a festival, from the flour provided by the government.¹ Again, Raba is mentioned as telling the people of Meḥuza that they should remove from their houses all the leaven belonging to the soldiers during the Passover week. The leaven had been given to the householders to prepare the soldiers' meals.² Not only the preparation of food, but also the transportation of the soldiers' baggage, lay as an obligation on the townspeople. Thus Raba is again mentioned as advising the people of Meḥuza how they should transport the soldiers' baggage on a Sabbath, in order to avoid desecrating the laws of the Sabbath.³ The reason the people of Meḥuza are so frequently mentioned in this connexion is, no doubt, because Meḥuza was a suburb of Ctesiphon, the capital, where troops were usually quartered. Again, Raba lived during the reign of Sapor II—times when the Persians were continually at war either with the Romans or the Arabs.

Being under compulsion to do forced labour for the soldiers was, no doubt, considered a very irksome duty to most people, and those who could evade this duty by flight would naturally try to do so. This must have been the reason for the flight of Rabbah and R. Joseph from Pumbadita when that town was visited by troops. That event must have taken place before the year 278, as they were met in their flight by R. Zera, who had not yet emigrated to Palestine, and we know that his emigration took place before the death of R. Johanan in 278.⁴ R. Zera too, we learn, was once compelled to do forced labour for the Crown.⁵ An indication of

¹ Bezaḥ 21a. That the flour was provided by the government is clear from the context, as has already been proved by Halevy, *ibid.*

² Pesah. 5b; see Rashi, also Halevy, *ibid.*; Funk, i. 18.

³ Shabb. 147b.

⁴ Hull. 46a; see Halevy, iii. 448.

⁵ Berak. 9b; cf. Ketub. 62b. **וְלֹא חָלִיף פְּרִיסְתָּקָא דְּמַלְכָּא** = the officer of the king does not pass his door to requisition him for public service,

the inconveniences and hardships entailed on the inhabitants on the entrance of troops into a town is contained in the statement of Samuel that he had never missed saying the additional prayer מוסף in public worship, except on the day that the king's troops entered Nehardea, consequently the scholars were so troubled that they could not gather together for public worship.¹ This must have happened most probably in the year 226, when Ardashir overran and conquered Babylonia.

In addition to the governmental taxes and impositions it was the duty of the townspeople to maintain the walls and gates of the city, to which all were obliged to contribute, even orphans. The provision of a town guard and an armoury guard was also an obligation upon them. Scholars were exempt from either of these obligations, for R. Judah declared, 'Scholars do not need to be guarded.'²

In connexion with this subject may be mentioned the Persian law that all lost articles and treasure trove were the perquisites of the Crown.³

Rashi, 'Aruk reads דרוקא דמלכא = government troops pass not his door. See Kraus, ii. 108, note 748. ¹ Berak. 30a and b. See Halevy, *ibid*.

² B.M. 108a; B.B. 8a. Words of R. Judah: 'All must subscribe towards נפא = city gates (נלל = to roll), even orphans, but scholars do not need guarding.' Again R. Papa ולטורינא, ולפרשאה, ולטורינא even from orphans, but Rabbis do not need guarding. טורינא (Arab. = armoury guard), 'Aruk., Rashi. See Kohut and Jastrow. See Funk, ii. 43.

³ B.M. 28b: 'We are not Persians who say lost articles belong to the king.'

XII

THE LAW OF THE LAND AND JEWISH CIVIL LAW

THE Jews in their relations to the Persian government adhered strictly in all civil matters to the ruling given to Rab-bah by the Exilarch Mar 'Ukba b. Nehemiah in the name of Samuel, דינא דמלכותא דינא 'The law of the Crown (in civil matters) is to be the accepted law.'¹ The consequence of this ruling was that the evasion of the law of the government was considered to be a transgression of Jewish law. For this reason it was imperative to know what exactly was the govern-mental law, the evasion of which was prohibited by Jewish law. In considering this subject it will be found necessary to recapitulate some of the matter dealt with in the chapters on taxation, as this will help to throw some light on how the conception of דינא דמלכותא דינא worked in the everyday life of the Jews in Babylonia.

When the Mishnah ruled that one should not exchange his money from that of the chest of a publican, or that one may conceal his goods in order not to pay customs dues, or that one may deceive the publicani, the question is at once raised in the Gemara, 'Have we not accepted the dictum of Samuel דינא דמלכותא דינא The law of the land must be accepted, and have not the publicani bought their rights from the govern-ment?' To which the reply is given by R. Hanina b. Kahana, in the name of Samuel, that the ruling of the Mishnah applies only to such publicani that have no fixed rate of dues, since these men acted illegitimately, and not in accordance with the law of the land; it was therefore permissible to deceive them and was in no way in conflict with the conception of דינא דמלכותא דינא.²

¹ B.B. 55a; see Funk, i. 57, 70-1; Yawitz, vii. 43.

² B.K. 113a; Nedar. 27b.

The Jewish tax-collectors, being obliged to conform to Jewish law, while in the course of performing their official duties of trying to enforce payment of taxes due from their fellow Jews, had to be guided by the Rabbis as to what action on their part was legitimate. Further, it was necessary for the general Jewish populace to know which actions on the part of the tax-collectors were legal, in order to abstain from buying from them things they had confiscated for taxes illegally. Raba therefore ruled that the tax-collector is justified in exacting from the partner whose produce is found in the barn at the time of collection the tax due from all the partners, and such action, being in accord with the law of the land, should not be considered robbery on the part of the collector, as has been rightly observed by Rashi. The collector is, however, not justified in exacting from the produce of the metayer the tax due from the owner, as the former, having had no share in the land, was therefore not liable to the tax. Anything taken from him for the landowner's tax was clearly robbery on the part of the tax-collector, and as a Jew he must abstain from such practices.¹

Another ruling of Raba to the same effect, for the guidance of the Jewish tax-collectors and of the general populace, was that by the law of the land the tax-collectors were justified in taking pledges from one citizen for the tax due from another, but only for the current year's tax, not for the tax due from him from a previous year.² Any collector taking advantage of his position and pledging for a previous year's default of tax was clearly committing robbery. The fact that Raba found it necessary to mention these rules to serve as guiding principles is a sure indication of the illegal practices resorted to by the tax-collectors of the Crown.

The policy of the Crown of confiscating land because of the

¹ B.K. *ibid.*; see Rashi מנחה דמלכה.

² *Ibid.*; see chapter on Taxation.

failure on the part of the owners to pay the Taska, and the subsequent sale of those lands to such people as could afford to pay the tax, was accepted by the Jews of Babylonia, although according to Jewish conceptions it should not have been legitimate. This is a natural consequence of the acceptance of *דינא דמלכותא דינא*. Thus Rabbah was told by the Exilarch Mar 'Ukbah b. Nehemiah in the name of Samuel, 'The lands bought by the wealthy landowners for the Taska must be considered as legitimately acquired', and should the original owners subsequently find the means of paying the tax, they could not claim before the Jewish courts for the return of their lands from the buyers.¹ If, however, the Crown officials had acted illegally by confiscating land for failure on the part of the owner to pay his Kraga, the sales of those lands subsequently effected by them was to be considered as illegal, and Jews who had bought at these sales could be compelled by the Jewish courts to return the land to the original owners, since the Persian law allowing confiscation referred to Taska only. By this means the Jewish law was made to serve as a curb on the propensities of the Crown officials to act illegitimately, at least in Jewish districts.² On the other hand, some authorities maintained that the Persian law of confiscating property referred also to Kraga. Such was the opinion of R. Huna b. Joshua (4th cent.) and also of the scribes of the court of Raba. According to their opinion, then, the sales effected for failure to pay Kraga were legitimate. The majority of opinions seemed to favour the former view. The absence of a clear ruling on the part of the Persian government was the cause of many forced sales for Kraga, and in many such cases the conveyances were actually drawn up in the Jewish courts and had to be accepted as legitimate.³

¹ B.B. 55a. See Rashbam.

² Ibid.

³ Ibid. לאוקומיה מילתיה הוא דאמר.

As a natural consequence of דינא דמלכותא דינא, all bills and conveyances drawn up by the Persian courts were accepted by the Jews even among themselves as binding. Such was the case even in such matters as the conveyances of gifts where no other form of legal acquisition was performed but that of drawing up the deeds of conveyance. Thus the question is raised in the Gemara, How could a deed drawn up by the civil courts be accepted by the Jewish courts, since they were not drawn up in a manner that was valid according to Jewish conception? To this Samuel replied דינא דמלכותא דינא 'The law of the land must be accepted in civil matters.'¹ When a deed drawn up in a Persian court was brought before R. Papa (d. 372), since he could not read Persian himself, he would allow the document to be read before him by two Persians, each of them reading it in the absence of and unbeknown to the other. R. Papa then accepted the deed to be just as binding for Jews as if it had been drawn up in the Jewish courts.² Incidentally, we learn from this that the Persian language had not penetrated deeply among the Jews in Babylonia; for even the great R. Papa, who was Head of the Neresh Academy and lived as late as the second half of the fourth century, could not read Persian, although he understood the language when a Persian document was read before him. A similar inference can be made from the objection raised several times in the Gemara while in the course of discussing the validity of Persian documents: 'But the average witness cannot read Persian.'³ Recognition of validity was afforded only to documents actually drawn up in the Persian courts, but not to those drawn up at the assemblies of the Aramaeans כניפיאתא דארמאי. These may have been the communal courts of the Aramaean inhabitants of the country.

¹ Gitt. 10b; see Maimonides הלכות מלוה xxvii. 1 and the codes for an analysis of these laws. ² Gitt. 19b; see Maimonides and codes, *ibid.*

³ Gitt. 11a and 19b למיקרא זה לא ידעי.

Rabina (3rd and 4th cent.) at first thought of accepting the validity of documents drawn up in such assemblies, but Rafram pointed out to him that reliance was to be placed only on the official courts.¹

There is an assertion made by Abaye that there existed a Persian law which ruled that conveyance of property should be effected only by means of written contracts, and as a consequence of *דינא דמלכותא דינא* Jews were expected to be guided by it when buying and selling real estate. R. Joseph, on the other hand, disagreed with him, holding that, as no definite Persian law on the subject existed, the Jewish law of legal acquisition therefore functioned for Jews, even in their dealings with non-Jews.² This example may also serve as a clear indication of the ambiguity that prevailed in the Persian law of the time.

As already indicated, the Jews among themselves enjoyed almost complete autonomy. The rulings of the Jewish courts were respected by the government, and contracts drawn up by them were accorded the same validity as those drawn up in the Persian courts. This is proved by the fact that even the Crown officials when selling confiscated property to Jews had the conveyances drawn up in the Jewish courts. Thus the Exilarch R. Huna b. Nathan (4th and 5th cent.) questioned the scribes of the court of Raba whether sales of confiscated property for Kraga were to be considered legal, to which they replied in the affirmative. Upon this the remark was made in the Gemara that in reality they were not to be considered legal, but that those scribes by their ruling wished to uphold the validity of such sales the conveyances of which had been drawn up by them.³

Jewish Civil Law. All the Jewish civil and land laws were

¹ Gitt. 11a.

² B.B. 54b; see Rashbam on *הרי הן במדבר* and on *לא ידענא*.

³ B.B. 55a.

observed by the Jews in Babylonia, except when such laws actually came in conflict with Persian law.¹ This is exemplified in nothing so much as in the law of חוקה usucaption. The plea of purchase or of any other legal method of acquisition, with evidence of three years of undisturbed possession, was sufficient to prove title according to Jewish law;² by Persian law, however, forty years' undisturbed possession was required. This too is included among the things told to Rabbah by the Exilarch 'Ukba b. Nehemiah in the name of Samuel ארישן אריסותא דפרסאי עד מ' שנין (Aruk reads אריש Pers. = law of usucaption).³ In their dealings with Gentiles the Jews, in obedience to רינא דמלכותא דינא, conformed with the Persian law. Although no actual case is found in the Gemara, this Persian law is mentioned by Mar 'Ukba as accepted by the Jews.⁴ Among themselves, however, the three years' period was recognized as operating. There is no necessity to cite many examples that such was the case with the Babylonian Jews, as it is obvious to any one acquainted with the Talmud. Two concrete examples will therefore, I think, be sufficient. Whilst in the course of discussing the law of חוקה, the assertion is made by R. Joseph that if, during the three years, the corn had been cut in its early stages and used as fodder, the חוקה is not valid. Upon this Raba remarked that in the district known as צוואר מחוזא 'Neck of Meḥuza', since it was a common thing for the farmers to use the young grain as food for the cattle reared in the district, such a thing would be considered a valid חוקה. Another instance is the statement of R. Naḥman that the law of three years חוקה is not in operation with the lands of the Exilarch, since, being the owner of very large tracts of land, he would often allow people to cultivate his land free of rent, as he was pleased that

¹ Cf. Funk, i. 4-5; Halevy, i. 110; Kraus, *Heb.* 7-8.

² B.B. 28a and innumerable other places.

³ B.B. 55a.

⁴ Ibid., see Rashbam on דאריסותא וכו'.

his land was not allowed to lie idle and unproductive. On the other hand, neither could the Exilarch claim חזקה because of three years' undisturbed possession of the land of an ordinary person, since the victim was usually afraid to protest against the Exilarch's occupation.¹

Anomalies of Two Civil Laws. A few cases are found in which the fact that they were subject to two different legal systems was the cause of some hardships to the Jews. Thus the Jewish law prescribes that both banks of rivers and canals should be left uncultivated to such a depth that it would enable the towers to pass along freely while pulling the barges. R. Judah, speaking to R. Adda the surveyor, said: 'You should not be very particular in measuring accurately the four cubits of the banks of the Nehara, which has to be left uncultivated; since it is public property, an estimated measurement will suffice.'² Again, R. Ami (3rd cent.), a Babylonian who subsequently emigrated to Palestine, said that the Jewish authorities should cut down all trees growing on both sides of the Nehara, to such a depth that it would enable the towers to walk along freely נגרי קוצו מלא כתפי נגרי קוצו. Further, R. Nathan b. Hoshiya (3rd cent.) caused the banks of the Nehara at Mashronia to be cleared to a depth of sixteen cubits. The townspeople resented such proceedings on his part, and showed their resentment in a forcible manner. The opinion of R. Nathan was that sixteen cubits was necessary to be cleared, but his view was not accepted.³

From the foregoing it follows that the Jewish authorities could enforce the cutting down of all trees growing within the prescribed distance of the bank of a river or canal, and they would sometimes have the trees cut down where the owners had failed to do so. Another instance to the same effect is the following. Rabbah b. R. Nahman (4th cent.), while travelling

¹ B.B. 36a both cases; see the whole of the chapter חזקת הבתים for many other proofs.

² B.M. 107b.

³ Ibid.

by boat, observed that on the side of the Nehara the wood grew to the very edge of the bank. On inquiring whose property it was, he was informed that it belonged to Rabbah b. R. Huna. On hearing this, he remarked: 'Yea, the hand of the princes and rulers hath been chief in this trespass,'¹ implying that Rabbah b. R. Huna should have been the last person to be guilty of such a trespass. Rabah b. Nahman then commanded that the trees at the edge be cut down, and the command was carried out.² At certain points, presumably near towns, larger spaces had to be left for the loading and unloading of goods from the boats רַקְתָּא דְנְהָרָא (Aram. = river-bank).³

These were specific Jewish ordinances and not enforced by Persian law, as is indicated by the following instance: Rabbah b. R. Huna possessed a wood on the banks of the Nehara the trees of which reached the edge. On being told to clear the banks, he replied that if the neighbours above and below him would clear their parts of the bank he would follow suit. It is further explained in the Gemara that the woods on either side of his belonged to Parzak Rufila (an important Persian official) and as the latter did not clear his part of the bank, it was obviously useless for Rabbah b. R. Huna to cut away the trees from his, as the towers could not very well walk on his side of the canal because of the obstruction caused by the wood of Parzak Rufila.⁴

Being compelled to leave large strips of land along the banks uncultivated, the Jewish owners ceased paying Taska for them. By doing so they automatically lost ownership of

¹ Ezra ix. 2.

² B.M. 108a.

³ See B.M. 23b. The רַקְתָּא דְנְהָרָא cannot be considered as a mark for distinguishing a lost article, as we can say to the loser that just as it happened that you left the article behind while unloading on the רַקְתָּא דְנְהָרָא so it could have happened to others. See Rashi, *ad locum*, and *ibid.* 108a; cf. Sukkah 26a: R. Hisda and Rabbah slept on the רַקְתָּא of the Sura Canal.

⁴ B.M. 107b אבא רבי פרוק רופילא הוה רַקְתָּא.

the land (see chapter on Taxation), which then became free for any one to acquire and pay the Taska, till it would ultimately be sold by the Crown agents. There were not wanting unscrupulous Jews who took advantage of this unsatisfactory state of affairs, and acquired for themselves those uncultivated strips of land. Since, according to Persian law, they were acting legally, the Jewish authorities were powerless to eject them. This follows from the saying of Samuel, 'He who acquires (for Taska) on the banks of the Nehara, is an unscrupulous fellow, but we are powerless to eject him as, according to Persian law, he is acting strictly within his rights'.¹ Such an unsatisfactory state of affairs obviously could not continue very long. The Persian government was brought round to appreciate the Jewish point of view. To avoid further abuses, the government enacted that the uncultivated strips of ground along the banks should be recognized as the property of the proprietors of the adjoining fields.²

A second instance of inconvenience caused by the fact of being subject to a dual system of laws is afforded by the right of pre-emption possessed by neighbours *דינא דבר מצרא*, which together with other Jewish land laws operated among the Jews in Babylonia. Thus R. Judah said in the name of Rab that if any one acquires a field the owners of which had failed to pay Taska, and that field was situated between those belonging to two brothers or two partners, the intruder is to be considered an unscrupulous fellow, but he is not to be ejected. R. Nahman disagrees with this, and holds that he should be ejected, but only when he intrudes between brothers or partners, but not if the adjoining fields belonged to strangers

¹ B.M. 108a מאן דאחזיק בהאי; see Rashi.

² Ibid.: 'And now that the Persians write in (the deeds) you acquire all the land extending into the Nehara to a depth where it would reach a horse's neck, those unscrupulous fellows can be ejected.' See Rashi.

whose claim of pre-emption was based on the fact that they were neighbours בני מערה. The scholars of the Nehardea Academy, however, maintained that even in such cases he should be ejected.¹ From the foregoing it appears that people would seek to take advantage of the Persian law which confiscated land for failure on the part of the owner to pay Taska, and by that means attempted to evade the Jewish law of pre-emption possessed by neighbours. On the other hand, this instance throws a light on the power vested in the hands of the Jewish authorities; for even in such cases where the intruder was acting strictly within his rights according to Persian law the Jewish authorities possessed the power of ejecting him, because he was transgressing Jewish law. The reason for the Persian authorities not interfering with the action of the Jewish authorities in this matter is, no doubt, because it was a matter of indifference to the government as to who held the field, so long as the Taska was paid. With the exception of the two cases just cited, no other instances are found of any difficulties experienced by the Jews, in the observance of their own civil laws, in Babylonia.

Land Laws. To prove conclusively that the Jewish civil and land laws operated among them in Babylonia it will only be necessary to cite a few of the specifically Jewish land laws which were actually in force there mentioned in the Talmud. The most important instance is, of course, the fact that the ten ancient land enactments, which tradition assigns to be the work of Joshua when he first divided the land of Canaan among the Israelites, were observed in their full force by the Jews in Babylonia. Sufficient proof of this has been brought in the Introduction to this work.

The various laws which prevent the owner of one piece of ground doing anything within his borders which might cause even indirect damage to the contiguous fields operated in

¹ B.M. 108a; see Rashi's interpretation also of Tosafot on תנא כחן.

their full force in Babylonia. An example of this is afforded by the law given in the Mishnah that one may not plant trees within four cubits of the borders of the neighbouring field, unless it is surrounded by a fence. The reason for this law is that it enabled a man to plough round his trees, without fear of the plough entering the adjoining field. The distance of four cubits, said Samuel, applied only to Palestine, but in Babylonia, because the condition of the soil was different and smaller implements were in use, a distance of two cubits was sufficient.¹ Another instance is the case of Rabbah b. R. Hanan (4th cent.), whose date-palms stood near the borders of the vineyard of R. Joseph, and birds used to gather on the palms and descend thence to the vineyard and cause much damage. R. Joseph therefore asked Rabbah to remove the palms; the latter, however, protested that he had left the prescribed space, to which R. Joseph replied that between trees and vines a larger space should be left.² A further instance is furnished by the case where the roots of the date-palms of R. Papa penetrated into the adjoining field of R. Huna b. Joshua. The latter, desiring to dig pits in his field, cut away the roots and kept the wood, in accordance with the ruling of the Mishnah.³

When buying land, trees, or houses, all questions as to what was included in the sale were settled in accordance with Jewish law. As an instance may be mentioned the ruling that generally the sale of two trees does not include the ground where they grow, but with the sale of three trees the ground is included.⁴ 'What must be the distance between the trees?' is the question raised in the Gemara. The reply to this is given by R. Joseph in the name of R. Judah, who in turn spoke in the name of Samuel, that the distance between must be no less than four and not more than eight cubits; while Raba

¹ B.B. 26a; see *supra*, Chap. V, p. 74.

² *Ibid.*

³ *Ibid.*

⁴ *Ibid.*, 81a Mishnah.

replied in the name of R. Nahman, who also spoke in the name of Samuel, that the distance between must be from eight to sixteen cubits. In support of his contention R. Joseph cites a case that happened in Dura Dera'uta where one bought three trees from another, and the dispute that arose as to whether the ground between was included in the sale was brought before R. Judah, who ruled that although the space between the trees was no more than four cubits, the ground was to be considered as included in the sale.¹

The evidence brought in this chapter makes it abundantly clear that Jewish civil law was enforced among the Jews in Babylonia in all cases where it did not directly come in conflict with the law of the land.

¹ B.B. 83a.

INDEX OF TALMUD REFERENCES

Berakot:

5b	39, 52, 57, 97
8a	23
9b	185
13b	72, 111
18b	37
31a	22
35b	33
36b	91, 150
37a	91, 93
37b	135, 150
38a	91, 100, 103
40b	113
47a	134
50a	29
56a	26
56b	94
58b	31

Shabbat:

12a	27
17b	141
18a	139, 146
19b	116, 123, 131
20b	103, 104, 135
21a	103
23a	101
26a	101, 103
29a	98
32b	27
33a	27
40b	25
41a	25
51a	126
51b	125
52a	124
54b	32
55a	72
58a	28, 72
59b	27
62a	70
63b	129, 149

67a	82
73a	74
73b	74
77a	95
77b	116
78b	179, 181
80a	141
80b	109, 131
81a	20
82a	106
94a	143
107a	177
108a	142
109a	27
110b	107
112a	27
119a	28, 30
124b	142
129a	95
130a	141
139a	177
140b	91, 104, 106, 109
141a	111
143	98
146b	141
147b	185
155b	133
156a	29

'Erubin:

15a	22
19a	21
21a	18
24b	97
25b	26, 28
34b	184
39b	141
51a	99, 176
54a	95, 96
55b	25, 105
56a	105
59a	28, 37

*Erubin (*cont.*):

65a	108
81a	93, 150
86a	129
100a	22, 100
102a	124
104b	84

Pesahim:

5b	185
6a	182, 183
8a	107
8b	33
11a	145, 146
28a	111
35a	90, 91, 93, 150
37a	150
40a	80, 91, 148, 149
40b	28, 69, 91
42b	95, 110
46b	149
50b	147
51a	90
54a	11
54b	18
56a	81
74b	132
87b	8, 23, 24
88a	22
107a	108, 109, 110
108b	96
111b	28
112b	129
113a	34, 35, 43, 110, 128, 129
116a	72
119b	134

Shekalim:

12b	3
---------------	---

Yoma:

10a	9
85b	111
86a	157, 158
87a	155

Sukkah:

26a	194
37a	28

Bezah:

2b	131
6a	16, 131
6b	131
7a	131
10b	134
14b	69
16a	91
21a	185
24a	131, 133
25a	138
25b	154
28a	158
29a	158
29b	149
32b	30
33b	132
36b	145
38a	112, 118

Rosh Hashanah:

17a	30
---------------	----

Ta'anit:

4b	81
6b	32
9b	41
10a	17, 141
11b	18
12a	18
20a	177
20b	28, 31, 106
21a	28, 43
21b	24
22b	18
24a	20, 138
24b	14, 20, 90
25a	25
26a	27
29b	22, 23, 104

Megillah:

5b	104
7a	111
7b	99
8b	39
27b	170
28a	40

Mo'ed Katan:

2a	17
4a	18, 83
4b	77, 87, 97
6b	26
10a	145, 146
10b	125, 128, 140, 145
11a	137, 139, 140
12a	26, 28
12b	45, 80, 92, 105, 109
13b	90, 92
16a	155
17a	30
17b	30
28a	25, 28, 91

Hagigah:

4a	72
5a	158
10a	111
25a	96

Yebamot:

17a	170
46a	28, 72, 168, 173
63a	34
77a	70
116a	128

Ketubot:

8b	105
11a	69
40a	70
40b	70
49b	32
55b	128
57b	67

59b	145, 146
61a	15
61b	15, 129
62b	185
64b	150
65a	27
67a	35, 127
67b	32, 105
76b	86
77b	23, 107, 109
79a	99, 138
80b	68
81b	46
82a	46
87a	168
97a	20, 40, 44, 90
91a	46
103a	148
105a	40

Nedarim:

27b	179, 187
41a	126
46b	165
49b	91, 92
50b	70, 150
53a	101
55a	38, 92, 195, 96
62b	45, 169, 171

Nazir:

31b	122
---------------	-----

Sotah:

46b	22
---------------	----

Gitin:

6a	34
10b	190
11a	190, 191
13a	69
14a	29
14b	29
19b	190
27a	104

Gittin (*cont.*):

31b	29
37a	36
38a	72
40a	72, 73
43b	72, 73
44a	73
45a	72
52b	168
56a	81
58b	44, 164
59b	136
60a	42, 136
60b	85, 86, 139
61a	22, 139
65a	63
65b	97
67b	69, 72
69b	133
73a	102, 125
74b	55
86a	67

Kiddushin:

11a	67
22b	68
33a	125
39a	39, 41, 42, 78, 93, 107
39b	107
49b	24, 46
50a	46
59a	39, 42
65b	46
70a	70, 156, 158
70b	70
71b	3, 6
72a	6
82a	154

Baba Kama:

12a	72
20a	121
23b	122, 157
27b	86, 102
46a	76, 122

46b	76, 122
48a	121, 144
52a	116
55a	127, 132
56b	114
58b	98
59a	28, 71, 98
59b	28, 71
61b	81
80a	2, 124, 130
80b	130, 143
81b	5
83a	129, 149
92a	38, 58, 96, 97, 99
92b	132
96b	11
97a	69
99b	153
112b	29
113a	177, 179, 180, 183, 187, 188
113b	88, 167, 174
114b	136
116b	37, 63
117a	142
119a	27
119b	110, 123

Baba Mezi'a:

5a	113
5b	113
6b	25
10a	63
12b	138
16b	107
21a	102
22a	26, 45
23a	150
23b	121, 158, 194
24b	5, 87
28a	186
30a	77
31b	30
32b	124
35a	40
36a	106

37b	117
38b	45
39a	173, 175
39b	45
56a	150
60a	95
60b	68
63b	81
64a	107
65a	181
66b	47
67	47
68a	47
69a	118, 119, 120
72a	47
72b	81
73a	43, 45, 53, 57, 60, 61
73b	161, 162, 168, 172
74a	81
74b	56
76a	64, 66
77a	63, 66, 84
77b	32, 63, 64
78a	65
78b	183
80a	76
83b	65
84b	114
86a	14, 178
90a	123
92a	65
93a	67, 114
93b	114, 115
94a	115
97a	126, 130
100a	68
102a	134
102b	52, 55, 57, 58
103a	52, 76, 85
104a	49
104b	50, 59, 92, 102
105a	59, 60
105b	50, 59
106a	59
106b	51, 52, 59, 92, 111

107a	51, 79, 93
107b	41, 83, 110, 193, 194
108a	87, 186, 194, 195, 196
108b	168
109a	43, 45, 53, 57, 60, 61, 110, 111, 153
109b	61
110a	55, 62, 165, 166

Baba Batra:

4a	88
4b	88
5a	45
7a	26
8a	128, 166, 171, 182, 186
11b	184
12a	75, 84
12b	82
13b	68, 150
18a	136
18b	136
20b	147, 149
21b	139, 147, 170
22a	181, 182
22b	41, 100
23a	41, 100, 132, 133
24a	43, 97, 133
24b	43, 97
25b	103
26a	42, 44, 74, 76, 100, 103, 197
28a	192
28b	111
29a	78, 79
31a	107
36a	37, 89, 111, 117, 123, 193
39b	40
40b	47
41a	40, 41
41b	40
46b	55, 56, 58
48b	40
52a	99
54a	140
54b	39, 161, 162, 165, 168, 191

Baba Batra (*cont.*):

55a .	37, 163, 165, 171, 174, 175, 177, 178, 187, 189, 191, 192
65a .	144
66b .	144
68a .	89, 106
69a .	80, 144
78a .	124
80a .	134, 136
80b .	82
81a .	197
82b .	78
83a .	78, 198
89a .	71
90b .	37, 38
91a .	23
91b .	85, 109
92a .	122
93b .	80
94a .	80
95b .	95
97a .	94
97b .	94
98b .	26
99b .	83
106a .	43, 102
106b .	102
107b .	100
111a .	46
115b .	11
137b .	43
151a .	47, 48
152a .	128
167a .	181
168b .	43
169b .	47

Sanhedrin:

5b .	113
25a .	135, 155
25b .	112, 135, 169, 175, 176, 180
26a .	169
26b .	67

27b .	171
52a .	127
61a .	124
72b .	124
95a .	143
98a .	177
103a .	114

Makkot:

5a .	127
------	-----

Shebu'ot:

30a .	70
42a .	157

'Abodah Zarah:

16a .	121, 128
16b .	118, 125, 146
18b .	143
22a .	111
24b .	81
30b .	130
35b .	150
38b .	72
56b .	96
70a .	5
76b .	11

Abot:

i. 5 .	68
--------	----

Horiyot:

10b .	44
-------	----

Zebahim:

19a .	15
116b .	81

Menahot:

70a .	90, 91
85b .	40, 42
87a .	77, 96
110a .	13

Hullin:

3b .	153
------	-----

8b	151	133b	157
9a	153	142a	134
18a	152	Bekorot:	
30b	142	3b	121
44b	157, 158	18a	100
45b	25	31a	26, 28, 176, 177
46a	185	Keritot:	
48a	156	6a	27
48b	156	Me'ilah:	
49a	132	19a	28
50b	132	'Arakin:	
51b	141	21b	65
52a	141	29a	63
54a	141	Niddah:	
60a	44	47a	71, 72
62a	133	Jerusalem Talmud:	
62b	11, 16, 133	Berakot, iv. 1	24
78a	82	Pe'ah, viii. 8	32, 37
84a	115, 116	Shabbat, i. 4	101
84b	77, 115	Jebamot, xv. 3	21
93b	154	Nedarim, ix. 4	30
95a	118	Baba Batra, iii. 5	58
95b	4, 6, 158	Baba Batra v. 5	71
105a	37, 38, 39, 42, 106	Sanhedrin, i. 1	67, 113
105b	109	'Abodah Zarah, ii. 8	101
107a	84		
112a	134		
132b	156		

GENERAL INDEX

- Abaye, 5, 43, 45, 70, 79, 82, 85, 86, 92, 95, 99, 120, 121, 125, 132, 136, 145, 146, 149, 150, 155, 157, 158, 161, 165, 182, 191; date-palm in his house, 22; his apadna, 26; his landed estates, working in them himself and employing metayer, 42; short period tenant farmer, 52; his millstones, 145; with tolls collector, 181.
- Abba b. Abba the father of Samuel, 28, 117; his landed estates, 37; his produce affected prices on the Nehardea market, 37.
- R. Abba, buying a field, 42.
- Nehar Abba, 104.
- b. Ada Sabuloah, 114.
- R. Ada the surveyor, 82, 110, 193.
- R. Ada Saba, 46.
- R. Ada b. Ahaba, 124; his father wine producer, 96.
- Ada the fisherman, 139.
- R. Ada b. Abba, 182.
- Adiabene, 12.
- Agricultural implements, 74.
- Mar Aha, 29.
- R. 'Ahadboi b. Matna, 47.
- R. Ahi b. Yashayah, 29, 138; his grave, 66.
- Alexandrians had only radish-oil, 101.
- Amalek compared to butchers, 154.
- Amemar, 44, 107, 108, 178.
- Amemar b. Mar Yanuka killed, 16.
- R. Ami disciple of Rab, 83, 184, 193.
- R. 'Amram, 46, 72.
- R. 'Anan, 92; owner of land, land-mark swept away, 41.
- Anbar, 14.
- Angaria, 183-4.
- Anomalies of two civil laws, 193-6.
- Apamea, 7.
- Arabs, 107, 111; despoiling Jews of their lands in Pumbadita, 43.
- Aramean Courts, 190-1.
- Archer, skilled, 142.
- Ardashir (town), 7.
- Ardashir I, 19, 186; conditions under, 10.
- Arnona, 182-3; either in money or kind, 182-3.
- Arsacides, 8.
- Artabanus IV, and Rab, 8.
- R. Asher b. Yehiel, 152.
- R. Ashi, 28, 29, 44, 46, 50, 52, 60, 72, 87, 90, 103, 121, 130, 151, 161, 162, 166, 171; his wood in Shelanya, selling a wood to fire-worshippers, his daughters claim inheritance, 45; changing crops, 60; wife bakes bread herself, 149.
- Ass, 124-6, drivers, 124, working mills, 125, 146.
- R. Avina, 148.
- Awana, 6.
- Babylonia, Jews living in compact masses, 2-6; general conditions, 17-32; water supply, 17-18; lakes 18; rain, 18; droughts and famine, 19; soil 20, 78; climate, 20; fasts for rain, 19; rapidity of growth, 21; fruits, 21; free from diseases, 23, 109; plagues, 23-4; poverty, 24; poor die of strangulation, 24; festivals joyful, 24; Jewish farms, 41; differing from Palestine in agriculture, 74-5; Academies surpass Palestinian, 2.
- Badita Labai, 137.
- Baghdad, 6, 19, 37.
- Bahram II, 13.
- Bahram V Gor, 14, 15.
- Bakers and baking, 149-50.

- Balash, 16.
 Baranash and Synagogue of Daniel, 19.
 Barley, 90.
 Baths in Babylonia, 24; of villages and towns, 25.
 Beer, 107-10; national drink, 107-9; for Sanctification and Habdala, 108; of barley, of figs, 110.
 Bees, 135-6; and mustard fields, 136.
 Benjamin the shepherd, 113.
 R. Bibi, 109.
 R. Bibi b. Abaye, 26, 48; owner of land, 42; renting field, 57.
 R. Biboa of Sura, 36.
 Billeting troops, 184.
 Nehar Biran, 87.
 Birta, 14, 138.
 Borganin in Babylonia, 18-19.
 Borniz Canal, 87.
 Bread, 91, 149-50; merchants, 150; householders, and bakers, 149-50.
 Breeders, 117-21; partnership arrangements, 118.
 R. Brona, 103.
 Butchers and butchering, 150-60; compared to Amalek, 154; gross behaviour to scholars, 154-5; goats of, 121, 156.
 Camels, 126-8; species of, 127.
 Capital punishment, power to inflict, 8, 10; by Raba, 14.
 Cappadocians, only naphtha, 101.
 Captives, the management of their estates, 45.
 Carus (Emperor), 13.
 Cats, 129-30; eating mice and snakes, 130.
 Cattle, 122-4; subject to Arnona, 182.
 Chickens, 116, 131.
 Conveyances of property by written documents, 191.
 Cotes, 132, 133.
 Cotton-seed oil, 103.
 Cow, for threshing, 123.
 Credit, 157.
 Ctesiphon, 7, 185.
 Cultivating fields in successive years, 78; alternate years, 78.
 Cuscuta, 23, 80, 109-10.
 Customs and tolls, 179-80.
 R. Daniel b. Kattena, 69; his vegetable garden, 41.
 Dates, 97-100; Aramean and Persian, 98; and 'Ulla, 22.
 Date-palms, of Babylonia, 21; in towns, 22; in Abaye's house, 22; value as an investment, 99.
 Deer, 140-1.
 Dog, 128-9, sheep-dog, 115.
 Dina Demalkuta Dina, 179, 187-93.
 R. Dimi b. Hinana, 68.
 R. Dimi b. Joseph, 47.
 R. Dimi, of Nehardea, 181.
 Distance between trees to include land in sale, 197.
 Domaskinin, fruits of, 21.
 Domitian (Emperor), 166.
 Dough, subject to Arnona, 182.
 Dove, 133.
 Dredging canals, 87.
 Drokros, plague in, 24.
 Dromedary, 127.
 Ducks, 131-2.
 Dur and Dura Dera'uta, 6, 162, 165, 198.
 'Eber Yamina, fruits of, 21.
 Eggs, 131.
 R. Ele'azar, 25; comparing business with agriculture, 34.
 R. Ele'azar of Hagronia and his metayer, 119.
 Eliezer Ze'era, 71.
 Emigrating to Palestine, 46, 60.

- Euphrates, 6, 7; and rapidity of growth, 21; Jewish towns on, 3; bathing in, 23.
- Exilarch, 8, 131, 141, 171; his wealth, 28-9; scholars at his table, 29; his estates, land, and houses, 36; grain heaps, 37; slaves of, 71; acting as judge, 98; commissioning Raba to examine R. Dimi, 181; Hazaka not effective on his estates, 192.
- Fasts for rain, 19, 20.
- Fatteners, 117-21; in partnership, 118.
- Fencing fields, &c., 88.
- Firus Shabur, 14.
- Fishing, 136-9; fish-ponds, 138; lines, traps, nets and pits, 139-40.
- Flax, 80, 104-5; in abundance, 22; good quality, 104; cultivation, 104-5.
- Flocks, 115-17; of goats and sheep, 116.
- Fodder, 111.
- Forced sales of land, 40.
- Fowling and fowlers, 132, 140-3.
- Fruit-trees as investment, 94.
- Funk (S.), 79.
- Fur, 143.
- Gardens, 88.
- Geese, 131-2.
- Geneba, wine producer, 96-7.
- R. Giddol negotiating for a field, 42.
- Giddol b. Re'ulai, paying taska three years in advance, 44, 164.
- Ginger, 111.
- Goats, 116, 121-2; of Tarbo, 121.
- Government appointments not looked upon with favour, 10, 177.
- Grain, 90-3; feeding birds on, 92.
- Grapes, 93-4.
- Grinding corn for a livelihood, 147-8.
- Groats, 91, 92.
- Habiba of Sura on the Euphrates, 51.
- Hadrian (Emperor), 8.
- Hagronia, 7; fast in, 20.
- Hai, Gaon, 1.
- Halevy (I.), 2, 22.
- R. Hama, 144; and table-stewards of the Exilarch, 28; his merchandise free from dues, 181.
- R. Hama b. Bozi, reciting grace at the Exilarch's table, 29.
- b. Hama, 171.
- R. Hamnuna, oxen of, 124; paying Kraga, 169, 171.
- R. Hana b. Hanilai, 39; his philanthropy, 31.
- R. Hanan, 41, 92.
- Handak, 87.
- R. Hanina b. Hama, 109; concerning diseases and Babylonian Jews, 23.
- R. Hanina b. Kahana, 180, 187.
- Hanuka lights and the Magi, 9.
- Harmah, 86.
- Harpania, 7, 170; fruits of, 21.
- Harvesting, 79.
- Hazar Paiti, 10, 177.
- Heathens subject to Kraga, 168.
- R. Helbo, 150.
- Hemp, 105.
- Hilleh, 7.
- R. Hilkiah b. Tobi, 40; his land, 40, 92.
- Nehar Hindieh, 6.
- R. Hisda, 19, 25, 28, 31, 44, 72, 85, 91, 95, 104, 105, 106, 110, 115, 122, 141, 156, 184; and Mari b. Isak, 30; brewer, 34, 108; his vineyard and date-palms, 97, 100.
- R. Hiyya, 8, 107, 109.

- R. Hiyya b. Abba, 100.
 R. Hiyya b. Abin, 68, 92.
 R. Hiyya of Parwa, 72.
 Hiyya b. Rab, 40.
 R. Hiyya b. Ashi, 140, 158.
 Holwan, 12.
 Horse, 128; of Messiah, 128.
 Honey, from dates, 99; from bees, 135.
 Houses as investment, 99.
 Hozae, 126; plague in, 24; species of grain eaten in, 90.
 R. Huna, 3, 12, 28, 40, 78, 80, 92, 97, 108, 110, 142, 144, 147, 151, 155, 184; rearing small cattle, 2, 123; philanthropy, 31; wine turns sour, 39; his landed estates, 39; his metayer, 39; working the fields himself, 39-40; not giving prunings to metayer, 57; permanent leases, 58; and vegetables, 105; as shepherd, 113; calves of, 124; his wood, 194.
 R. Huna b. Hiyya, 26, 28; and ostlers of Exilarch, 29; tax-collector, 176.
 R. Huna b. Joshua, 44, 98, 164, 170, 174, 189, 197; his field, 43; buying field as student, 44; sesame field, 102.
 R. Huna b. Judah, 132.
 Gaon R. Huna Mar Halevy b. R. Isaac, 35.
 Huna b. Mar Zutra killed, 16.
 R. Huna b. Nathan (Exilarch), 191; and Yezdegerd, 15.
 Hunting, 140-3.
 Huzal, 22, 29, 39, 91; the butchers and R. Hisha, 155.
 Ibn Daud, 10.
 Ibn Rusta, 137.
 Ibn Serapion, 84.
 Ifra Hurmiz, 13, 14.
 Ihi-da-Kiri, 3, 4, 6.
 Ingathering of grain, 80.
 Inheritance of estates, 46; and Levirate marriage, 46.
 Irrigation, 82-7; canals, 82-3.
 Nehar Isa, 7, 162.
 R. Isaac, 103; his advice, 35, 42.
 R. Isaac b. R. Judah, 103.
 R. Ishmael b. Jose praising the wealthy of Babylonia, 30.
 R. Jacob, 116.
 Jeremiah's message, 23, 48, 104.
 R. Jeremiah, 87.
 Jewish Civil law, 192-8.
 R. Johanan, 12, 24, 100, 115, 185; concerning longevity of Babylonian Jews, 23.
 R. Johanan b. Nori, 101.
 R. Johanan b. Zakai, 63.
 R. Joseph, 26, 30, 38, 46, 75, 77, 92, 95, 96, 99, 109, 121, 122, 123, 133, 144, 146, 156, 176, 182, 191, 192, 197, 198; his vineyard and grainfields, 41, 97, 100; working himself, 42; his wine, 42; concerning metayers, 52, 57; death of his planter, 61; date-palms, 100; wife bakes bread herself, 149; flight together with Rabbah, 185.
 R. Joseph b. Hama, and debtor's slaves, 69.
 Joseph the trapper, 141.
 Josephus, 166.
 Joshua, the enactments of, 4, 196.
 R. Joshua b. Levi, 101.
 R. Judah, 4, 5, 25, 26, 40, 51, 55, 65, 77, 78, 81, 82, 83, 87, 89, 95, 96, 97, 102, 104, 105, 109, 110, 112, 116, 123, 125, 128, 133, 135, 144, 146, 150, 151, 156, 158, 162, 166, 176, 177, 180, 186, 193, 196, 197, 198; rearing small cattle, 2; ordaining fast, 19; bath in Pumbedita, 25; and Sapor I, 11; bill

- R. Judah (*cont.*)
 of sale of slaves, 67; buying pigeons, 134.
 R. Judah the Hindoo proselyte, 68.
 R. Judah b. Illai, 50.
 R. Judah the Prince, 8.
 R. Judah b. Samuel b. Shilas, 104.
 Julian (Emperor), 14, 22, 101.
 Kafri, 7, 25, 100, 109, 171.
 R. Kahan (4th and 5th cent.), 5, 6, 21, 50, 94; jewellery of his daughters-in-law, 27.
 R. Kahana, 133, 142; questioning Rab, 4; journeying to Huḏal, 22; field landmark swept away, 40.
 Kamhonia, ropes, 105.
 Mar Ḳashisha b. R. Ḥisda, 107.
 Ketubah, could be claimed from landed estates only, 35; change in Geonic period, 35-6.
 The King's portion, 166-8; taking pledges for, 167.
 Kohanim, their prerogative, 155, 156.
 Kosmin, 90.
 Kosrau Anosurwan, 166.
 Kraga, 168-75; freedom of individual pledged for, 168; Jewish defaulters, 172; heathen defaulters, 173; fleeing from Kraga, 173-4; paid in instalments, 177; selling land for, 174-5, 189; exemption from paying, 197.
 Kraus, 18, 19, 24, 64, 123.
 Kut-el-Amara, 6.
 Labour laws, 65; custom mentioned by Psalmist, 65.
 Land Laws, 196-8.
 Land, security for debts, 47; as investment, 99.
 Landowners buying confiscated land from the Crown, 9, 37.
 Layard, 81, 84.
 Leaving banks of canals uncultivated, 193-5.
 Lentils, 80.
 Levi b. R. Huna b. Hiyya, 125.
 Levi b. Simon, 134.
 Levi b. Sisi, 126, 141; visiting bath in Nehardea, 24; golden wreaths, 27.
 Linen garments and Babylonian trade, 23; best quality from Nehar Abba, 104.
 Magi, 4, 10; inflicting hardships, 9, 16; free from Kraga, 168.
 Malka, Nehar, 7, 51, 102.
 R. Ma'ir, 111, 153.
 R. Manasseh b. Gada, breeder, 120.
 Manuring, 87-8.
 R. Manyomi b. R. Nehomi concerning metayers and planters, 55, 61.
 Mar b. R. Ashi, 46, 100; his inheritance, 45.
 Mar b. R. Huna b. R. Jeremiah b. Abba and the synagogue of Daniel, 19.
 Gaon Mar R. Manasseh b. R. Joseph, 35.
 Mar b. Rabina, 142.
 b. Mar b. Rabina, 133.
 b. Mar Samuel, legacy to Raba, 21, 38; estates on Nehar Pania, 38.
 Marcus Aurelius, 8.
 Maremar b. R. Ḥanina, 126.
 R. Mari b. the daughter of Samuel, 55.
 Mari b. Isak, 30; his estates, 44; his metayer, 44.
 Mari b. Isar, 46.
 b. Marian, 5.
 Market gardeners, 106, 107.
 R. Masharshiah, 94, 125.
 Masharshiah killed, 16.
 Mashronia, 41, 83.
 Mata Meḥasya, 7, 27, 40, 46, 103, 157, 158; beer-producing, 110; live-stock, 123.

- Meat stalls, 156-7; weighing, 157;
standard portions, 157; menfolk
buying, 158.
- Media, Jewish settlements, 3; nut
oil, 101; beer, 110.
- Mehuza, 7, 14, 30, 37, 38, 43, 109,
121, 135, 156, 185; fast in, 20;
wealth of, 27; jewellery of the
womenfolk, 27; golden wreaths
of, 27; Rabina in, 27; money
bags of, 35; water-wheel, 84.
- Melted fat, 103.
- Mesene, 6, 7; date-palms of, 22.
- Mesopotamia, 12, 141; garden of
Eden in, 21.
- Metayer, 49, 50, 54-8; sharing
straw, 52; yearly tenancy, 54;
permanent lease, 58; sub-letting,
58.
- Millet, 91, 93.
- Mills and Milling, 144-9; hand-
mills, 144-5, 147; water-mills,
146; mills worked by asses, 146.
- Gaon Moses b. Jacob of Sura, 36.
- Mule, 126.
- Mustard, 111.
- R. Nahman b. Isaac, 29, 142, 171.
- R. Nahman (b. Jacob), 19, 29, 40,
47, 55, 65, 69, 78, 98, 107, 131,
141, 148, 155, 156, 184, 192, 195,
198; concerning metayers, 58;
wage-earners and Hebrew slaves,
63; his workmen, 66.
- R. Nahman of Nehardea, 5, 6.
- R. Nahman b. R. Hisda, 24, 170.
- R. Nahman b. Papa, his vegetable
garden, 44.
- Naphtha, 101.
- Narses, 13.
- Nars Canal and Nehar Neresh, 7,
20, 43, 114, 137.
- Natazai, his town, 37.
- R. Nathan b. Abba, 30.
- R. Nathan b. Ami, taxed by Raba, 32.
- R. Nathan b. Hoshiya, 41, 83, 193.
- R. Nathan b. Isaac, 63.
- Navigation canals, 82.
- Neck of Mehuza, 111, 123, 192.
- Nehardea, 7, 29, 37, 38, 39, 45, 71,
72, 107, 109, 126, 127, 144, 156,
181, 182; destruction of, 12;
famine in, 20, 90; baths in, 24;
golden wreaths, 27; selling houses
for food in, 40; proselytes in, 85;
wine-cellars of, 96; oil-pressing
in, 102; Arab thieves in, 117.
- Nehardea Academy, 1; scholars of,
196; dispute with Raba, 49.
- Neharwan Canal, 6.
- R. Nehemiah b. R. Joseph, 144.
- Neresh, 7, 100, 108, 158; fast in,
20.
- Nil Canal, 7.
- Nisibis, 12, 141.
- Odenarth, 12.
- Oil, 101-4.
- Okbara, 6.
- Olive, 101.
- Orphans subject to Kraga, 168.
- R. Oshaya, 17.
- Oxen, ploughing, 75, 77, 116, 122,
123; threshing, 80; hide and
slaughtering, 122.
- Palestine, 18, 20, 24, 36, 75, 78,
80, 91, 103, 107, 112, 122, 144,
197; agricultural implements, 74;
rearing small cattle, 2, 112;
pigeon-breeding, 132; pigeon-
racing, 134.
- Palmyra, 12.
- Pania, Nehar, 21, 97.
- Papa, Nehar, 113.
- R. Papa, 28, 44, 76, 83, 98, 109,
110, 114, 117, 125, 127, 137, 157,
164, 172, 190, 197; brewer, 34,
43, 108; metayer, landowner,
oil producer, 43, 102; his date-

- R. Papa (*cont.*)
 palms, 43, 100; buying field, 44;
 tenant, 53; fodder, 111.
- Papa b. Abba the trapper, 141; his
 family, 173.
- Papa b. Nazar, 12.
- R. Papa b. Samuel and planter, 60;
 and slave, 68, 71.
- R. Papi, 28, 69, 171.
- Papi Yonai, 102-3.
- Parazina, 19.
- Parchment, 142.
- Parthians, conditions under, 8.
- Parzak Rufila, his wood, 41, 194;
 angaria, 184.
- Nehar Pekod, 158.
- Pepper, 111.
- Persian documents and language,
 190.
- Persian government confiscating
 land for Taska, 162; for Kraga,
 174-5; amends the law, 195.
- Pigeons, 132-5; racing, 134.
- Pitch, 103.
- Planter, 60-1.
- Pliny, 109.
- Ploughing, 74-5, 76.
- Porridge, 91.
- Pre-emption, 195-6.
- Preparing food for troops, 184-5.
- Pruzbul, 36.
- Publicani, 179-81, 187.
- Pulse, 93.
- Pum-Nehara, 7, 27, 97, 170.
- Pumbadita, 7, 12, 26, 41, 42, 46,
 72, 105, 109, 114, 120, 182, 185;
 Jewish thieves in, 5; famine in,
 19, 90; baths in, 25; mansions of,
 27; Arab irruption, 43; oil-press-
 ing, 100; flax market, 104.
- Pumbadita Academy, 12.
- Rab, 3, 4, 9, 17, 18, 19, 22, 23, 25,
 65, 69, 73, 80, 85, 92, 93, 94, 98,
 100, 101, 103, 104, 106, 108, 112,
 116, 118, 122, 124, 128, 129, 133,
 137, 138, 140, 142, 151, 153, 157,
 158, 183; return to Babylonia, 1;
 head of Sura, 1; and Artabanus,
 8; and Sapor I, 11; rearing small
 cattle, 2; ordaining fast, 19; and
 village students, 33; comparing
 business with agriculture, 34; his
 estates, 38; buying field, 39; his
 vegetable garden, 39; and wage-
 earners' privileges, 63-4; study-
 ing nature of animals, 113; and
 the butcher, 155.
- Raba, 5, 28, 30, 38, 43, 45, 46, 50,
 51, 52, 65, 68, 69, 78, 79, 80, 81,
 82, 88, 91, 94, 95, 96, 97, 103,
 107, 111, 112, 121, 127, 128, 132,
 135, 137, 140, 142, 148, 151, 153,
 155, 156, 158, 167, 169, 171, 172,
 181, 182, 185, 188, 192, 197;
 and Sapor II, 14; ordaining fasts,
 20; his apadna, 26; estates in
 Harpania, 21; concerning baths,
 25; and wealthy of Mehuza, 30;
 taxing for charity, 32; and the
 students engaged in agriculture,
 33; comparing business with
 agriculture, 33; his metayers, 43;
 and short-period tenant, 52; con-
 cerning providing seed, 56; con-
 cerning workmen, 66; refusing to
 buy a slave, 68; his sheep, 124.
- Raba b. Hanan, his date-palms, 42,
 100, 197.
- Raba b. Hinana, 68, 151.
- Raba b. Kasma, 77.
- Rabbah, 25, 26, 79, 91, 99, 101, 102,
 114, 122, 133, 146, 162, 176, 187,
 189; accusation against him, 13,
 178; and florists of Exilarch, 28;
 flight together with R. Joseph, 185.
- Rabbah b. Abin, 148.
- Rabbah b. Abuha, 27.
- Rabbah b. b. Hana, 38, 40.
- Rabbah b. Hiyyah of Katospah, 80.

- Rabbah b. R. Huna, 92, 99, 125, 137, 139, 158; his wood, 41, 194.
 Rabbah b. R. Huna Zuta of Nehardea, 144.
 Rabbah b. R. Nahman, 193.
 Rabin b. R. Nahman, 51, 104.
 Rabina (4th cent.), 82, 88, 142, 151, 157, 191, his land and planter, 45.
 Rabina, 166; redactor of Talmud, 1; charity overseer, 27; and Mar Aha, 29; buying wine, 162.
 R. Rabina, 97.
 Rafram, 191.
 Rami b. Abba, 154.
 Rami b. Hama, 47.
 Rashbam, 83.
 Rashi, 2, 18, 123, 128, 145-6, 147, 154, 182, 188.
 Resh Nehara making assessments, 169, 178.
 Resh Lakish, 21.
 Rice, 91, 93.
 Romans, 12, 13, 14, 15, 19.
 Ronya and Rabina, planter, 45, 88.
 Ropes, 105.
 Rotation of crops, 79.
 Rye, 90.
 Saffron, 110-11.
 Sakota, 87.
 b. Sama, grandson of R. Ashi, 45.
 Samara, 6.
 Mar Samuel, 69.
 Samuel, 3, 4, 17, 18, 24, 70, 74, 77, 78, 83, 85, 93, 94, 96, 101, 108, 116, 118, 122, 134, 135, 153, 162, 179, 180, 183, 187, 189, 190, 192, 194, 197; Head of Nehardea, 1; and Sapor I, 11, 128; declares sales for Taska to be legal; his estates, 38; his produce on the Nehardea market, 38; his woman slave, 71; his vineyard, 96; date-palms, 100; during Ardashir's invasion, 186.
 Shanwata Canal, 86, 162.
 Sapor I, 9-12, 13; and Samuel, 11, 125; and R. Judah, 11.
 Sapor II, 13-14, 185; and Rabbah, 13; and Raba, 14; and R. Hama of Nehardea, 14.
 Sassanides, 8-16.
 Sat-al-Hai, 7.
 Scholars, as ritual slaughterers, 153; free from Kraga, 169, 171; free from customs and tolls, 181; do not need guarding, 186.
 Scribes of Raba's court and sales for Kraga, 175, 191.
 Sesame and oil, 80, 101-3.
 Sheaves, 80.
 Sheep, 116.
 Shepherds, 112-15; professional, 113; assistants, 114; dog, 115; common shepherd, 116.
 R. Sheshet, 47, 72, 123, 141, 172, 173; and estates of captives, 45; and Exilarch, 69; and Exilarch's slaves, 72.
 R. Shimi b. Ashi, and date-palms of Babylonia, 21; and Abaye, 42, 85.
 R. Shishbi, 131.
 R. Shishi b. R. Idi, 53, 76.
 Shohatim, 152.
 R. Simon, 72.
 Slavery, 67-73; slaves of the wealthy, 26; Hebrew slaves, 63, 70; formula of sale by R. Judah, 67; inheritance, 68; as dowry, 68; domestic service, other work, 70; town of, 72; not to be sold to heathens, 72-3.
 Slaughter, ritual, 150-6; professional slaughterer, 150, 152; butcher slaughterer, 150-6.
 Small cattle rearing, 2, 112.
 Sogya, Nehar, 125.

- Sowing grain among vines, 41, 92.
 Spelt, 90.
 Spices, 111.
 Stealing water from channels, 86.
 Sura, 7, 39, 40, 41, 43, 123, 127, 158, 171; date-palms in, 22; plague in, 24; beer common drink, 108.
 Sura Academy, 1.
 Syria, Jews living in, 2, 3.
 Tabbah b. Shila, 126.
 Tabi the trapper, 141.
 Tabot the trapper, 141.
 R. Taḥlifa b. Abima, 108.
 Talmud influence on Jews, 1.
 R. Tarfon, 101.
 Taska, 37, 161-8, 189, 194, 195; gives right of usufruct, 161; buildings subject to, 165; some lands free from, 166.
 Tax collectors, 167, 168, 175-8, 188; taking pledges, 167-8, 174, 188; abhorred by Jews, 176; subject to Jewish law, 181.
 Tenant farmer, 50, 51, 58-60; may change from pulse to corn, 51, 78; short period, 52.
 Threshing, 81.
 Tigris, 6, 7, 162.
 R. Tobi b. Matna, 47, 155.
 Tosafot, 2, 94, 83.
 Town Council and assessment of tax, 171.
 Town guard and armoury, 186.
 Transporting goods for troops, 185.
 Tree culture, 81.
 'Ukba b. Ḥama, 47.
 Mar 'Ukba b. Nehemiah (Exilarch), in name of Samuel, 162-3, 187, 189, 192.
 'Ulla, 23, 124, 169; and dates, 22.
 Usucaption (Ḥazaqa), 192.
 Valerian (Emperor), 12.
 Villagers do not moisten grain, 149.
 Vines, 76, 77-8, 93, 96, 97; as investment, 99.
 Wasit, 170.
 Watchmen, 66, 89.
 Water channels, 82-4.
 Water-wheel, 84.
 Watering, priority, 85.
 Wax, 103-4, 135.
 Wealthy, the, 26, 28; buying land for Taska, 162, 189; take advantage of their power, 29; flout authority of Rab, 30; pay Kraga for poor and work with them, 172.
 Wells, 85.
 Wheat, 90, 92.
 Wild animals, 140, 143.
 Wine, 94-6, undiluted not usually drunk, 96; dealers, 43.
 Winnowing, 81.
 Women, possessors of land, 47; not as employees, 70; in business, 70; grinding corn, 145; subject to Kraga, 168.
 Woods, 41.
 Workmen, 62-7; kablan, 62-3; wage-earner, 63; compared to Hebrew slave, 63; privileges, 63.
 Yalta, wife of R. Naḥman, 72.
 Mar Yanuḳa b. R. Ḥisda, 107.
 Yezdegerd I, 15.
 Yezdegerd II, 15-16.
 b. Yoḥani, grinding corn with wild asses, 125, 146.
 R. Yona b. Taḥlifa the archer, 142.
 R. Zabid, 47; his workmen, 67.
 Zabida the fattener, 121.
 R. Ze'era, 72.
 R. Zera, 17, 92, 113, 116, 185; his father tax collector, 169, 176.

b. Zırzor, 46.

Zitai, 77, 97.

Zoroastrians, festivals and lights, 9;

killing animals, 9, 10; ritual

baths, 10; exhuming the dead,

10.

Mar Zutra, 44, 46, 151; and slave, 68.

Mar Zutra b. R. Naḥman, his
apadna, 26.

Mar Zutra the pious and enact-
ments of Joshua, 4.

R. Zutra b. Tobiyah, 47, 94.